



**NCA 20-087**

**CLASSIFICATION: #14. CRIMES AND PUNISHMENTS**

**A LAW OF THE MUSCOGEE (CREEK) NATION REPEALING TITLE 22, CHAPTER 1, ENTITLED "TRAFFIC CODE" AND REPLACING IT WITH A NEW TITLE 14, CHAPTER 3, ENTITLED "MUSCOGEE (CREEK) NATION TRAFFIC CODE"**

**Be it enacted by the National Council of the Muscogee (Creek) Nation:**

**SECTION ONE. FINDINGS. The National Council finds that:**

A. The increased jurisdictional authority following the decision of the United States Supreme Court in *McGirt v. Oklahoma* requires the Nation to review its laws in order to assure the protection of persons within the Muscogee (Creek) Nation Reservation.

B. A review of the Muscogee (Creek) Nation Traffic Code indicates the need to adopt a more comprehensive traffic code for enforcement within the Muscogee (Creek) Nation Reservation.

C. There is a need to repeal the existing Traffic Code and establish a comprehensive Traffic Code in its place.

**SECTION TWO. REPEALER. MCNCA Title 22, Chapter 1, Entitled "Traffic Code" is hereby repealed.**

**SECTION THREE. NEW LAW.** The following new law shall be codified in Title 14, Chapter 3 of the Code of Laws of the Muscogee (Creek) Nation; provided that for purposes of codification of said new law and its inclusion in pocket parts for the Code of Laws of the Muscogee (Creek) Nation, the Attorney General is hereby authorized: (1) to approve any changes related to the manner in which sections, articles, chapters and sub-chapters are designated in this law in order to be consistent with the format in the Code of Laws published in 2010 by West Publishing Company; (2) to include footnoted references to the legislative history in said pocket parts to the Code of Laws; and (3) to note in said pocket parts any editorial correction of minor clerical or grammatical errors in the following new law:

**TITLE 14. CRIMES AND PUNISHMENTS  
CHAPTER 3. MUSCOGEE (CREEK) NATION TRAFFIC CODE**

**SUBCHAPTER 1. JURISDICTION; LIGHTHORSE AUTHORITY**

**§ 3-101. Jurisdiction**

This traffic code shall apply to all persons subject to the jurisdiction of the Muscogee (Creek) Nation Tribal Court who operate any motorized vehicle, motorcycle, all-terrain vehicle or bicycle within the Muscogee (Creek) Nation Reservation, including all hard surfaced or all-weather roads and right-of-ways. All matters arising under this Traffic Code shall be heard in the Muscogee (Creek) Nation District Trial Court.

**§ 3-102. Police Authority of Department**

A. Every Muscogee (Creek) Nation Lighthouse police officer and each officer of all other law enforcement agencies who are cross-commissioned by the Muscogee (Creek) Nation, are hereby declared to have the authority of peace officers of the Muscogee (Creek) Nation and shall be so deemed and taken in all courts having jurisdiction of offenses against the laws of the Nation. Such officers shall have the powers and authority now and hereafter vested by law in peace officers, including the right and power of search and seizure, the serving or execution of civil process and the right and power to investigate and prevent crime and to enforce criminal laws.

B. Muscogee (Creek) Nation Lighthouse officers shall have the following authority, responsibilities, powers and duties:

1. To enforce the provisions of this chapter and any other law regulating the operation of vehicles or the use of the highways, or any other laws of the Muscogee (Creek) Nation;
2. To arrest without writ, rule, order or process any person detected by them in the act of violating any law of the Muscogee (Creek) Nation;
3. When the officer is in pursuit of a violator or suspected violator and is unable to arrest such violator or suspected violator within the limits of the jurisdiction of the Muscogee (Creek) Nation, to continue in pursuit of such violator or suspected violator into whatever part of the state may be reasonably necessary to effect the apprehension and arrest of the same, and to arrest such violator or suspected violator wherever the violator may be overtaken;
4. To assist in the location of stolen property, including livestock and poultry or the carcasses thereof, and to make any inspection necessary of any truck, trailer or contents thereof in connection therewith;
5. At all times to direct all traffic in conformance with law and, in the event of a fire, or other emergency, or to expedite traffic or to ensure safety, to direct traffic as conditions may require, notwithstanding the provisions of law;
6. To require satisfactory proof of ownership of the contents of any motor vehicle, including livestock, poultry or the carcasses thereof. In the event

that the proof of ownership is not satisfactory, it shall be the duty of the officer to take the motor vehicle, driver and the contents of the motor vehicle into custody;

7. When on duty, upon reasonable belief that any vehicle is being operated in violation of any provisions of this chapter or any other law regulating the operation of vehicles, to require the driver thereof to stop and exhibit his or her driver license, proof of insurance and the certificate of registration thereon, if applicable, or to any inspection and test of the equipment of such vehicle;
8. To serve all warrants relating to the enforcement of the laws regulating the operation of vehicles or the use of the highways and bench warrants issued for nonpayment of fines and costs for moving traffic violations;
9. To investigate and report traffic collisions and to secure testimony of witnesses or of persons involved;
10. To investigate reported thefts of motor vehicles, trailers and semitrailers;
11. To stop and inspect any motor vehicle or trailer for such mechanical tests as may be prescribed by this code to determine the roadworthiness of the vehicle. Any vehicle which may be found to be unsafe for use on the highways may be ordered removed from said highway until such alterations or repairs have been made that will render said vehicle serviceable for use on the highway;
12. To stop and inspect the contents of all motor vehicles to ascertain whether or not the provisions of all general laws are being observed;
13. To enforce laws relating to the registration and licensing of motor vehicles;
14. To enforce the laws relating to the operation and use of vehicles on the roadways;
15. To enforce and prevent the violation of the laws relating to the size, weight and speed of commercial motor vehicles and all laws designed for the protection of the highway pavements and structures on such highways;
16. To regulate the movement of traffic on the roadways, government lands and public grounds;
17. Whenever possible, to determine persons causing or responsible for the breaking, damaging, or destruction of any improved surfaced roadway, structure, sign, marker, guardrail, or any other appurtenance, and to arrest persons responsible therefor and to bring them before the proper officials for prosecution;
18. To initiate or assist in manhunts and fugitive apprehensions; and
19. To perform any other lawful duty, power or function according to law.

C. Nothing in this section shall limit officers, agents or employees of the Muscogee (Creek) Nation Lighthouse Department from requesting assistance from any other law enforcement agency or limit officers of such agency from rendering the requested assistance. Cross-commissioned police officers and the law enforcement

agency responding to the request of the member of Lighthorse Department shall have the same rights and immunities as are possessed by the Muscogee (Creek) Nation Lighthorse Department and its officers.

D. No person shall have any power, right or authority to command, order or direct any commissioned law enforcement officer of the Muscogee (Creek) Nation to perform any duty or service contrary to the provisions of this chapter or any other laws of the Muscogee (Creek) Nation.

## **SUBCHAPTER 2. DRIVER LICENSES**

### **§ 3-201. Driver Must be Licensed**

A. No person shall operate any motor vehicle upon a street, road or highway within the Muscogee (Creek) Nation unless the person possesses a valid driver license for the class of vehicle being operated.

B. Any person possessing a valid driver license may exercise the privilege thereby granted upon all streets, roads and highways within the Muscogee (Creek) Nation.

C. No person shall operate a motorcycle or motor-driven cycle without having a valid license with a motorcycle endorsement.

### **§ 3-202. Exceptions to License Requirements**

A. Any person who is at least fifteen (15) years of age may drive during a session in which the driver is being instructed in a driver education course by a person who is a certified driver education instructor pursuant to certification issued by any Indian tribe or state. Said certified driver education instructor shall be seated in the right front seat of any motor vehicle when such driver education instruction is being conducted.

B. Any person:

1. Who is at least fifteen and one-half (15 ½) years of age and is currently receiving instruction in or has successfully completed driver education. For purposes of this section, the term "driver education" shall mean:
  - a. a driver education course authorized by the laws of any Indian tribe or state;
  - b. a commercial driver training course, as authorized by the laws of any Indian tribe or state; or
2. Who is at least sixteen (16) years of age, and has been issued a learner permit which grants the permittee the privilege to operate a motor

vehicle upon the public roadways only between the hours of 5:00 a.m. and 10:00 p.m. while accompanied by a licensed driver who is at least twenty-one (21) years of age and who is actually occupying a seat beside the permittee.

C. Any person who has been issued and possesses a valid learner permit who is in compliance with the laws of the Indian tribe or state that issued the learner permit while said person is actually accompanied by a licensed driver occupying the front seat of the vehicle.

**§ 3-203. License to be Carried and Exhibited on Demand**

A. Every licensee shall have his or her driver license in his or her immediate possession at all times when operating a motor vehicle and shall display the same upon demand by a police officer. Any person violating this section shall, upon conviction, be guilty of a misdemeanor and shall be punished as provided in this chapter.

B. Any person charged with violating this section who produces in court, on or before the date of the first court appearance, a driver license issued to him or her and valid at the time of his or her arrest shall be entitled to dismissal of such charge without the imposition of court costs or fines.

**§ 3-204. Unlawful Use of License or Identification Card**

A. It shall be unlawful for any person to commit any of the acts specified in paragraph 1 or 2 of this section in relation to a driver license or identification card issued by the Indian tribe or state of origin.

1. It is a misdemeanor for any licensee:
  - a. to display, cause or permit to be displayed one's own license after such license has been suspended, revoked or canceled, or to possess one's own license after having received notice of its suspension, revocation, or cancellation;
  - b. to lend one's own license or identification card to any other person or to knowingly permit the use thereof by another person;
  - c. to display, cause or permit to be displayed or to possess a license or identification card issued which bears altered information concerning the date of birth, expiration date, sex, height, eye color, weight or license number;
  - d. to fail or refuse to surrender to a police officer upon a lawful demand to do so, any license or identification card which has been suspended, revoked or canceled;

- e. to permit any unlawful use of a license or identification card issued to oneself;
  - f. to do any act forbidden or fail to perform any act required by this chapter;
  - g. to display or represent as one's own, any license or identification card not issued to such person;
  - h. to add to, delete from, alter, or deface the required information on a driver license or identification card;
2. It is a felony for any person:
- a. to create, publish or otherwise manufacture a license, tribal citizenship card, or identification card or facsimile thereof, or to create, manufacture or possess an engraved plate or other such device, card, laminate, digital image or file, or software for the printing of a license, tribal citizenship card, or identification card or facsimile thereof, except as authorized pursuant to the law of the Muscogee (Creek) Nation;
  - b. to display or cause or permit to be displayed or to knowingly possess any counterfeit or fictitious license, tribal citizenship card, or identification card;
  - c. to display or cause to be displayed or to knowingly possess any license, tribal citizenship card, or identification card bearing a fictitious or forged name or signature;
  - d. to display or cause to be displayed or to knowingly possess any license, tribal citizenship card, or identification card bearing the photograph of any person, other than the person named thereon as licensee;
  - e. to display or represent as one's own, any license, tribal citizenship card, or identification card not issued to him or her, for the purpose of committing a fraud in any commercial transaction or to mislead a peace officer in the performance of his duties.

**§ 3-205. Driving without License or while License is Canceled, Denied, Suspended or Revoked – Penalties**

A. No person shall operate a motor vehicle upon the public roads, streets, highways, turnpikes or other public places of the Muscogee (Creek) Nation without having a valid driver license for the class of vehicle being operated, except as herein specifically exempted. Any violation of the provisions of this section shall constitute a misdemeanor and shall be punishable of a fine of not less than Fifty Dollars (\$50.00) or more than Five Hundred Dollars (\$500.00) plus costs or by imprisonment for not more than thirty (30) days, or by both such fine and imprisonment. Any person charged with violating this section who produces in court, on or before the court date, a renewal or replacement



driver license issued to him or her shall be entitled to dismissal of such charge without payment or court costs and fine.

B. Any person who drives a motor vehicle on any public roads, streets, highways, turnpikes or other public places of the Muscogee (Creek) Nation at a time when the person's privilege to do so is canceled, denied, suspended or revoked or at a time when the person is disqualified from so doing shall be guilty of a misdemeanor and upon conviction shall be punished by a fine:

1. For a first conviction, of not less than One Hundred Dollars (\$100.00) and not more than Five Hundred Dollars (\$500.00);
2. For a second conviction, of not less than Two Hundred Dollars (\$200.00) and not more than Seven Hundred Fifty Dollars (\$750.00);
3. For a third and subsequent conviction, of not less than Five Hundred Dollars (\$500.00) and nor more than One Thousand Dollars, (\$1,000.00).

In addition to the fines as provided herein, any person violating the provisions of this section may be punished by imprisonment for not more than one (1) year or by both such fine and imprisonment. Each act of driving on the highways as prohibited shall constitute a separate offense.

#### **§ 3-206. Permitting Unauthorized Minor to Drive**

No person shall cause or knowingly permit a child under the age of sixteen (16) years to drive a motor vehicle upon any highway when such minor is not authorized hereunder or in violation of any of the provisions of this chapter.

#### **§ 3-207. Permitting Unauthorized Person to Drive**

No person shall authorize or knowingly permit a motor vehicle owned by him or under his control to be driven upon any highway, road, or street by any person who is not authorized hereunder or in violation of any of the provisions of this chapter.

#### **§ 3-208. Liability for Knowingly Permitting the Operation by a Person Not Qualified**

Any person as herein defined, who is the owner of any motor vehicle and knowingly permits such motor vehicle to be operated by any person who is not qualified to operate a motor vehicle under the provisions of this act, shall be civilly liable as a joint tortfeasor for any unlawful act committed by such operator.

#### **§ 3-209. Penalty for Misdemeanor**

A. It is a misdemeanor for any person to violate any of the provisions of § 3-101 et seq. of this chapter or other laws of the Muscogee (Creek) Nation not declared to be a felony.

B. Unless another penalty is provided in § 3-101 et seq. of this chapter or by laws of the Muscogee (Creek) Nation, every person convicted of a misdemeanor for the violation of any provision of § 3-101 et seq. of this chapter shall be punished by a fine of not more than Five Hundred Dollars (\$500.00) or by imprisonment for not more than six (6) months, or by both such fine and imprisonment.

### **SUBCHAPTER 3. FINANCIAL RESPONSIBILITY**

#### **§ 3-301. Definitions**

A. As used in § 3-301 et seq. of this chapter:

1. "Owner's policy" means a policy of motor vehicle liability insurance which:
  - a. Shall designate by explicit description or by appropriate reference all vehicles with respect to which coverage is thereby to be granted;
  - b. Shall insure the person named therein and insure any other person, except as provided in subparagraph c of this paragraph, using an insured vehicle with the express or implied permission of the named user, against loss from the liability imposed by law for damages arising out of the ownership, maintenance, operation or use of the vehicle; and
  - c. May provide for exclusions from coverage in accordance with existing laws.
2. "Operator's policy" means a policy of motor vehicle liability insurance which shall insure the named person against loss from the liability imposed upon the named person by law for damages arising out of the operation or use by the named person of any motor vehicle not owned by the named person, subject to the same limits of liability required in an owner's policy.
3. "Security" means:
  - a. A policy meeting the minimum vehicle liability limits according to the laws in effect in the Indian tribe or state where the vehicle is registered;
  - b. A deposit of cash or securities as required by the laws in effect in the Indian tribe or state where the vehicle is registered;



- c. Self-insurance, pursuant to the laws of the Indian tribe or state where the vehicle is registered;
4. "Compulsory Insurance Law" is the law requiring liability insurance, which provides the minimum vehicle liability limits, in conjunction with the operation of a motor vehicle in the Muscogee (Creek) Nation as found in this chapter, § 3-301 et seq. of this chapter.
5. "Security verification form" means a form, verifying the existence of security required by the Compulsory Insurance Law.
6. "Commercial auto coverage" means a coverage provided to an insured, regardless of the number of vehicles or entity covered, under a commercial auto, garage or truckers coverage form or rated from either a commercial manual or rating rule as filed and approved by the Indian tribe or state where the vehicle is registered.

### **§ 3-302. Liability Requirements-Proof of Compliance**

A. Every owner of a motor vehicle, other than a licensed used motor vehicle dealer, shall, at all times, maintain in force with respect to such vehicle security for the payment of loss resulting from the liability imposed by law for bodily injury, death and property damage sustained by any person arising out of the ownership, maintenance, operation or use of the vehicle. Every person, while operating or using a motor vehicle in the Muscogee (Creek) Nation which is not owned by the person, shall maintain in force security for the payment of loss resulting from the liability imposed by law for bodily injury, death or property damage sustained by any person arising out of the operation or use of the vehicle, unless the security has been provided by the owner in accordance with this section which does not exclude the person from coverage.

1. Unless otherwise provided by law, no motor vehicle shall be operated in the Muscogee (Creek) Nation unless there is in effect with respect to the vehicle security for the payment of loss resulting from the liability imposed by law for bodily injury, death and property damage sustained by any person arising out of the ownership, maintenance, operation or use of the vehicle. Every person, while operating or using a motor vehicle in the Muscogee (Creek) Nation which is not owned by the person, shall maintain in force security for the payment of loss resulting from the liability imposed by law for bodily injury, death or property damage sustained by any person arising out of the operation or use of the vehicle, unless the security has been provided by the owner in accordance with this section which does not exclude the person from coverage. Proof of security shall be carried in the vehicle at all times and shall be produced for inspection upon request by any law enforcement officer and, in case of an accident, proof shall be shown upon request of any person affected by the accident.

2. The owner of a motor vehicle may give proof of financial responsibility by providing proof of financial responsibility which is in compliance with the laws of the Indian tribe or state in which the vehicle is registered.

**§ 3-303. Certification of Existence of Security-Exemptions**

A. The owner of a motor vehicle shall carry in the vehicle at all times a current owner's security verification form listing the vehicle and the operator of the vehicle shall produce the form upon request for inspection by any law enforcement officer and, in case of an accident, the form shall be shown upon request to any person affected by the accident.

B. The following shall not be required to carry an owner's or operator's security verification form during operation of the vehicle:

1. any vehicle owned or leased by a tribal, federal or state government, or any agency or political subdivision thereof;
2. any vehicle bearing the name, symbol, or logo of a business, corporation or utility on the exterior and which is in compliance with the provisions of the Compulsory Insurance Law of the Indian tribe or state where the vehicle is registered which reflect a deposit or fleet policy;
3. fleet vehicles maintaining current vehicle liability insurance as required by the laws of the Indian tribe or state where the vehicle is registered or any or the regulating entity;
4. any licensed taxicab;
5. any vehicle owned by a licensed used motor dealer.

C. Any person who knowingly issues or promulgates false or fraudulent information in connection with either an owner's or operator's security verification form shall be guilty of a misdemeanor and upon conviction shall be subject to a fine not exceeding Five Hundred Dollars (\$500.00), or imprisonment for not more than six (6) months, or by both such fine and imprisonment.

**§ 3-304. Failure to Maintain Insurance or Security-Penalties**

A. An owner or operator who fails to comply with the Compulsory Insurance Law, or who fails to produce for inspection a valid and current security verification form or equivalent form which has been issued by the Indian tribe or state where the vehicle is registered upon request of any peace officer or other authorized person, shall be guilty of a misdemeanor and upon conviction shall be subject to a fine of not more than Two Hundred Fifty Dollars (\$250.00), or by imprisonment for not more than thirty (30) days, or by both such fine and imprisonment. Upon issuing a citation under this paragraph, the law enforcement officer issuing the citation may seize the vehicle being operated by the person and cause the vehicle to be towed and stored if the officer has probable cause to believe that the vehicle is not insured as required by the Compulsory Insurance Law of

the Muscogee (Creek) Nation. If the operator of the vehicle produces what appears to be a valid security verification form and the officer is unable to confirm noncompliance by a subsequent investigation, the officer shall be prohibited from seizing the vehicle and causing such vehicle to be towed and stored. Further, no vehicle shall be seized and towed under the provisions of this paragraph if said vehicle is displaying a temporary license plate that has not expired pursuant to the laws of the Indian tribe or state where the temporary license plate was registered.

B. A sentence imposed for any violation of the Compulsory Insurance Law may be suspended or deferred in whole or in part by the court.

C. Any person producing proof in court that a current security verification form or equivalent form which has been issued by the Indian tribe or state where the vehicle is registered reflecting liability coverage for the person was in force at the time of the alleged offense shall be entitled to dismissal of the charge upon payment of court costs; however, if proof of security verification is presented to the court by the assigned court appearance date, the court shall dismiss the charge without payment of court costs.

### **§ 3-305. Exemptions**

A. Every owner of a motor vehicle which is not used upon the public highways or streets shall be exempt from the provisions of the Compulsory Insurance Law.

B. The owner or transporter of a manufactured home, who is moving or transporting such manufactured home on the roads or highways within the Muscogee (Creek) Nation shall comply with the provisions of the Compulsory Insurance Law.

### **§ 3-306. Security Verification Forms-Violations of Law-Penalties**

A. It is a misdemeanor for any person:

1. To purchase a security verification form which bears altered or fictitious information concerning the existence of security as required by the Compulsory Insurance Law;
2. To display or cause or permit to be displayed or to possess a security verification form which the person knows bears altered or fictitious information concerning the existence of security required by the Compulsory Insurance Law; or
3. To display or cause or permit to be displayed or to possess any security verification form that is counterfeit.

B. It is a felony for anyone, other than an insurer or insurance producer that is properly licensed by any Indian tribe or state to:

1. Create or otherwise manufacture a security verification form or facsimile thereof, or to create, manufacture or possess an engraved plate or other such device for the printing of security verification forms; or
2. Issue or sell security verification forms.

C. The violation of any of the provisions of subsection A of this section shall constitute a misdemeanor punishable by a fine of not less than Twenty-five Dollars (\$25.00) or more than Five Hundred Dollars (\$500.00).

D. The violation of any of the provisions of subsection B of this section shall constitute a felony punishable by a fine not exceeding Five Thousand Dollars (\$5,000.00) or a term of imprisonment not to exceed one (1) year, or by both such fine and imprisonment.

#### **SUBCHAPTER 4. ACCIDENTS AND ACCIDENT REPORTS**

##### **§ 3-401. Provisions of Chapter Apply Throughout the Muscogee (Creek) Nation**

The provisions of this chapter shall apply upon roadways, highways and elsewhere throughout the Muscogee (Creek) Nation.

##### **§ 3-402. Accidents Involving Nonfatal Injury**

A. The driver of any vehicle involved in an accident resulting in a nonfatal injury to any person shall immediately stop such vehicle at the scene of such accident or as close thereto as possible but shall then forthwith return to and in every event shall remain at the scene of the accident until he has fulfilled the requirements of § 3-405 of this chapter. Every such stop shall be made without obstructing traffic more than is necessary.

B. Any person willfully or maliciously failing to stop to avoid detection or prosecution or to comply with said requirements under such circumstances, shall upon conviction be guilty of a felony punishable by imprisonment for not less than ten (10) days nor more than one (1) year, or by a fine of not less than Fifty Dollars (\$50.00) nor more than One Thousand Dollars (\$1,000.00), or by both such fine and imprisonment.

##### **§ 3-403. Accidents Involving Death**

A. The driver of any vehicle involved in an accident resulting in the death of any person shall immediately stop such vehicle at the scene of such accident or as close thereto as possible but shall then forthwith return to and in every event shall remain at the scene of the accident until he has fulfilled the requirements of § 3-406 of this chapter. Every such stop shall be made without obstructing traffic more than is necessary.

B. Any person willfully or maliciously failing to stop to avoid detection or prosecution, or to comply with said requirements under such circumstances, shall upon conviction be guilty of a felony punishable by imprisonment for not less than one (1) year nor more than three (3) years, or by a fine of not less than One Thousand Dollars (\$1,000.00) nor more than Five Thousand Dollars (\$5,000.00), or by both such fine and imprisonment.

#### **§ 3-404. Accidents Involving Damage to Vehicle**

The driver of any vehicle involved in an accident resulting only in damage to a vehicle which is driven or attended by any person shall immediately stop such vehicle at the scene of such accident or as close thereto as possible but shall forthwith return to and in every event shall remain at the scene of such accident until he has fulfilled the requirements of § 3-406 of this chapter. Every such stop shall be made without obstructing traffic more than is necessary. Any person failing to stop or comply with said requirements under such circumstances shall be guilty of a misdemeanor and upon conviction thereof shall be punished by a fine not to exceed Five Hundred Dollars (\$500.00) or by imprisonment for not more than one (1) year, or by both such fine and imprisonment. In addition to the criminal penalties imposed by this section, any person violating the provisions of this section shall be subject to liability for damages in an amount equal to three times the value of the damage caused by the accident. Said damages shall be recoverable in a civil action. Nothing in this section shall prevent a judge from ordering restitution for any damage caused by a driver involved in an accident provided for in this section.

#### **§ 3-405. Duty to Give Information and Render Aid—Drug and Alcohol Testing**

A. The driver of any vehicle involved in an accident resulting in injury to or death of any person or damage to any vehicle which is driven or attended by any person shall give his correct name, address and registration number of the vehicle he is driving, and shall upon request exhibit his driver license and his security verification form, as defined in § 3-301 of this chapter, to the person struck or the driver or occupant of or person attending any vehicle collided with, and shall render to any person injured in such accident reasonable assistance, including the carrying, or the making of arrangements for the carrying, of such person to a physician, surgeon or hospital for medical or surgical treatment if it is apparent that such treatment is necessary or if such carrying is requested by the injured person. Any driver who provides information required by this section which is intentionally inaccurate shall be subject to the provisions of § 3-405 of this chapter.

B. Any driver of any vehicle involved in an accident who could be cited for any traffic offense where said accident resulted in the immediate death or great bodily injury of any person shall submit to drug and alcohol testing as soon as practicable after such accident occurs to determine the presence of alcohol or controlled dangerous substances within the driver's blood system.

**§ 3-406. Duty upon Striking Unattended Vehicle**

The driver of any vehicle which collides with any vehicle which is unattended shall immediately stop and shall then and there either locate and notify the operator or owner of such vehicle of the correct name and address of the driver and owner of the vehicle striking the unattended vehicle, and provide said operator or owner with information from his security verification form, as defined in § 3-301 of this chapter or shall leave a written notice giving the name and address of the driver and of the owner of the vehicle doing the striking in a conspicuous place in the vehicle struck, and providing information from his security verification form and a statement of the circumstances thereof.

**§ 3-407. Duty upon Striking Fixtures upon a Highway**

A. The driver of any vehicle involved in an accident resulting only in damages to fixtures, fences, or other property legally upon or adjacent to a highway shall take reasonable steps to locate and notify the owner or person in charge of such property of such fact and of the driver's name and address and of the registration number of the vehicle being driven and shall upon request exhibit a driver license and security verification form, as defined in § 3-301 of this chapter.

B. Any person failing to stop or comply with said requirements under such circumstances shall, upon conviction, be guilty of a misdemeanor punishable by a fine not to exceed Five Hundred Dollars (\$500.00) or by imprisonment for not more than one (1) year, or by both such fine and imprisonment. Nothing in this section shall prevent a judge from ordering restitution for any damage caused by a driver involved in an accident provided for in this section.

**§ 3-408. Immediate Notice of Accident**

A. The driver of a vehicle involved in an accident resulting in injury to or death of any person shall immediately, by the quickest means of communication, give notice of such accident to the nearest law enforcement officer or office after complying with the requirements of § 3-406.

B. Whenever the driver of a vehicle is physically incapable of giving an immediate notice of an accident as required by this section and there was another occupant in the vehicle at the time of the accident capable of doing so, such occupant shall make or cause to be given the notice not given by the driver.

**SUBCHAPTER 5. OBEDIENCE TO AND EFFECT OF TRAFFIC LAWS**

**§ 3-501. Provisions of Chapter Refer to Vehicles upon the Highways—Exceptions**



A. The provisions of this chapter relating to the operation of vehicles refer exclusively to the operation of vehicles upon the roads and highways except:

1. Where a different place is specifically referred to in a given section.
2. The provisions of this subchapter shall apply upon roads, highways and public parking lots throughout the Muscogee (Creek) Nation.

**§ 3-502. Required Obedience to Traffic Laws**

It is unlawful and, unless otherwise declared in this chapter with respect to particular offenses, it is a misdemeanor for any person to do any act forbidden or fail to perform any act required in this chapter.

**§ 3-503. Obedience to Police Officers**

No person shall willfully fail or refuse to comply with any lawful order or direction of any police officer invested by law with authority to direct, control or regulate traffic.

**§ 3-504. Persons Riding Animals or Driving Animal-Drawn Vehicles**

Every person riding an animal or driving any animal-driven vehicle upon a roadway shall be granted all of the rights and shall be subject to all of the duties applicable to the driver of a vehicle by this chapter, except those provisions of this chapter which by their very nature can have no application.

**§ 3-505. Persons Working on Highways-Exceptions**

Unless specifically made applicable to, the provisions of this chapter shall not apply to persons, teams, motor vehicles and other equipment, while actually engaged in work upon the surface of a highway, or to persons, motor vehicles and other equipment while actually engaged in construction, maintenance or repair of public utilities provided that all highway and public utility operations shall be protected by adequate warning signs, signals, devices or flagmen, but the provisions of this chapter shall apply to such persons and vehicles when traveling to or from such work.

**§ 3-506. Authorized Emergency Vehicles**

A. The driver of an authorized emergency vehicle, when responding to an emergency call or when in the pursuit of an actual or suspected violator of the law or when responding to but not upon returning from a fire alarm, may exercise the privilege set forth in this section, but subject to the conditions herein stated.

B. The driver of an authorized emergency vehicle may:

1. Park, or stand, irrespective of the provisions of this chapter;

2. Proceed past a red or stop signal or stop sign, but only after slowing down as may be necessary for safe operation;
3. Exceed the maximum speed limits so long as speeding does not endanger life or property;
4. Disregard regulations governing direction of movement; and
5. Disregard regulations governing turning in specified directions.

C. The exemptions herein granted to the driver of an authorized emergency vehicle shall apply only when the driver is properly and lawfully making use of an audible signal or of flashing red or blue lights or a combination of flashing red and blue lights meeting the requirements of § 3-1918 of this chapter, except that an authorized emergency vehicle operated as a police vehicle need not be equipped with or display a red or blue light visible from in front of the vehicle. This section shall not be construed as requiring a peace officer operating a police vehicle properly and lawfully in response to a crime in progress to use audible signals.

D. The exemptions in paragraphs 3 and 5 of subsection B of this section shall be granted to a law enforcement officer operating an authorized emergency vehicle for law enforcement purposes without using audible and visual signals required by this section as long as the action does not endanger life or property if the officer is following a suspected violator of the law with probable cause to believe that:

1. Knowledge of the presence of the officer will cause the suspect to:
  - a. destroy or lose evidence of a suspected felony;
  - b. end a suspected continuing felony before the officer has obtained sufficient evidence to establish grounds for arrest; or
  - c. evade apprehension or identification of the suspect or the vehicle of the suspect; or
2. Because of traffic conditions, vehicles moving in response to the audible or visual signals may increase the potential for a collision.

The exceptions granted in this section shall not apply to an officer who is in actual pursuit of a person who is eluding or attempting to elude the officer.

E. The provisions of this section shall not relieve the driver of an authorized emergency vehicle from the duty to drive with due regard for the safety of all persons, not shall such provisions protect the driver from the consequences of reckless disregard for the safety of others.

### **§ 3-507. Military Convoys**

The military forces of the United States and organizations of the National Guard, performing any military duty shall have the right of way on any street, road, or highway through which they may pass against all, except carriers of the United States mail, fire engines, ambulances and police vehicles in the necessary discharge of their respective duties. Said mounted military moving in convoy shall have lights burning, with lead and trail vehicles prominently marked, and shall travel, while inside the corporate limits of a city or town, in compliance with such speeds as are legally posted and shall maintain a closed interval of not more than seventy-five (75) feet.

## **SUBCHAPTER 6. TRAFFIC, SIGNS, SIGNALS AND MARKINGS**

### **§ 3-601. Obedience to and Required Traffic Control Devices**

A. The driver of any vehicle shall obey the instructions of any official traffic control device applicable thereto placed in accordance with the provisions of this act, unless otherwise directed by a traffic or police officer, subject to the exceptions granted the driver of an authorized emergency vehicle in this act.

B. No provisions of this act for which signs are required shall be enforced against an alleged violator if at the time and place of the alleged violation an official sign is not in proper position and sufficiently legible to be seen by an ordinarily observant person. Whenever a particular section does not state that signs are required, such section shall be effective even though no signs are erected or in place.

### **§ 3-602. Traffic Control Signal Legend**

A. Whenever traffic is controlled by traffic control signals exhibiting different colored lights or colored lighted arrows successively one at a time, or in combination, only the colors green, red and yellow shall be used, except for special pedestrian signals carrying a word legend, and the lights shall indicate and apply to drivers of vehicles and pedestrians as follows:

#### **1. Green indication:**

- a. a vehicular traffic facing a green arrow signal, except when prohibited under § 3-1702 of this chapter, may proceed straight through or turn right or left unless a sign at such place prohibits either such turn. But vehicular traffic, including vehicles turning right or left, shall yield the right of way to other vehicles and to pedestrians lawfully within the intersection or an adjacent crosswalk at the time such signal is exhibited.
- b. vehicular traffic facing a green arrow signal, shown alone or in combination with another indication, may cautiously enter the intersection only to make the movement indicated by such arrow, or such other movement as is permitted by other indications shown at

the same time. Such vehicular traffic shall yield the right of way to pedestrians lawfully within an adjacent crosswalk and to other traffic lawfully using the intersection; and

- c. unless otherwise directed by a pedestrian-control signal, as provided in § 3-603 of this chapter, pedestrians facing any green signal, except when the sole green signal is a turn arrow, may proceed across the roadway within any marked or unmarked crosswalk;

2. Steady yellow indication:

- a. a vehicular traffic facing a steady circular yellow or yellow arrow signal is thereby warned that the related green movement is being terminated or that a red indication will be exhibited immediately thereafter; and
- b. pedestrians facing a steady circular yellow or yellow arrow signal, unless otherwise directed by a pedestrian control signal as provided in § 3-603 of this chapter, are thereby advised that there is insufficient time to cross the roadway before a red indication is shown, and no pedestrian shall then start to cross the roadway; and

3. Steady red indication:

- a. vehicular traffic facing a steady circular red signal alone shall stop at a clearly marked stop line, but if none, before entering the crosswalk on the near side of the intersection or, if none, then before entering the intersection and shall remain standing until an indication to proceed is shown except as provided in subparagraphs b and d of this paragraph;
- b. except when a sign is in place prohibiting a turn, vehicular traffic facing any steady red signal may cautiously enter the intersection to turn right or to turn left from a one-way street after stopping as required by subparagraph a of this paragraph. Such vehicular traffic shall yield the right of way to pedestrians lawfully within an adjacent crosswalk and to other traffic lawfully using the intersection;
- c. in order to prohibit right turns or left turns as prescribed in subparagraph b of this paragraph, on the red signal after the required stop, a clear, concise sign informing drivers that such turns are prohibited must be erected and visible giving notice that said turns are prohibited at the intersection;
- d. unless otherwise directed by a pedestrian control signal as provided in § 3-603 of this chapter, pedestrians facing a steady circular red signal alone shall not enter the roadway.

B. In the event an official traffic control signal is erected and maintained at a place other than an intersection, the provisions of this section shall be applicable except

as to those provisions which by their nature can have no application. Any stop required shall be made at a sign or marking on the pavement indicating where the stop shall be made, but in the absence of any such sign or marking the stop shall be made at the signal.

**§ 3-603. Pedestrian-Control Signals**

A. Whenever special pedestrian-control signals exhibiting the words “Walk” or “Wait” or “Don’t Walk” are in place, such signals shall indicate as follows:

1. Walk. Pedestrians facing such signal may proceed across the roadway in the direction of the signal and shall be given the right of way in the direction of the signal by the drivers of all vehicles.
2. Wait or Don’t Walk. No pedestrian shall start to cross the roadway in the direction of such signal, but any pedestrian who has partially completed his crossing on the walk signal shall proceed to a sidewalk or safety island while the wait signal is showing.

**§ 3-604. Flashing Signals**

A. Whenever an illuminated red or yellow signal is used in a traffic sign or signal it shall require obedience by vehicular traffic as follows:

1. Flashing red (stop signal). When a red lens is illuminated with rapid intermittent flashes, drivers of vehicles shall stop before entering the nearest crosswalk at an intersection or at a limit line when marked, or, if none, then before entering the intersection, and the right to proceed shall be subject to the requirements of law applicable after making a stop at a stop sign.
2. Flashing yellow (caution signal). When a yellow lens is illuminated with rapid intermittent flashes, drivers of vehicles may proceed through the intersection or past such signal only with caution.

B. This section shall not apply at railroad grade crossings.

**§ 3-605. Lane Use Control Signals**

A. When lane use control signals are placed over individual lanes, said signals shall indicate and apply to drivers of vehicles as follows:

1. Green indication-vehicular traffic may travel in any lane over which a green signal is shown;
2. Steady yellow indication-vehicular traffic is thereby warned that a lane control change is being made;
3. Steady red indication-vehicular traffic may use the lane only for the purpose of approaching and making a left turn.

**§ 3-606. Pedestrian-Actuated School Crossing Signals**

Whenever a pedestrian-actuated school crossing signal is provided, it shall require obedience by vehicular traffic and pedestrians in accordance with §§ 3-602 and 3-603 of this chapter.

**§ 3-607. Display of Unauthorized Signs, Signals or Markings**

A. No person shall place, maintain or display upon or in view of any highway any unauthorized sign, signal, marking or device which purports to be or is an imitation of or resembles an official traffic control device or railroad sign or signal, or which attempts to direct the movement of traffic, or which projects any flashing or revolving beams of light, or which hides from view or interferes with the effectiveness of any official traffic control device or any railroad sign or signal, and no person shall place or maintain nor shall any public authority permit upon any street or highway any traffic sign or signal bearing thereon any commercial advertising.

B. This section shall not be deemed to prohibit the erection upon private property adjacent to highways of signs giving useful directional information and of a type that cannot be mistaken for official signs.

C. Every such prohibited sign, signal or marking is hereby declared to be a public nuisance and the Muscogee (Creek) Nation is hereby empowered to remove the same or cause it to be removed without notice.

**§ 3-608. Interference with Official Traffic Control Devices or Railroad Signs or Signals-Violation Resulting in Personal Injury or Death-Penalty**

A. No person shall, without lawful authority, attempt to or in fact alter, deface, injure, knock down or remove any official traffic control device, including any nine-one-one (911) emergency telephone service route markers, or any railroad sign or signal or any inscription, shield or insignia thereon, or any other part thereof.

B. If a violation of subsection A of this section results in personal injury to or death of any person, the person committing the violation shall, upon conviction, be guilty of a felony punishable by imprisonment for not more than two (2) years, or by a fine of not more than Five Thousand Dollars (\$5,000.00), or by both such fine and imprisonment.

**§ 3-609. Traffic Signal Preemption Device**

A. As used in this section, the term "traffic signal preemption device" shall mean a device designed for use by authorized emergency vehicles to improve traffic movement by temporarily controlling signalized intersections.



B. It shall be unlawful for a person to possess, use, or interfere with a traffic signal preemption device unless:

1. The person is the operator of an authorized emergency vehicle upon which the device is installed; and
2. The person is responding to an existing or potential emergency and there is a threat of immediate danger to life or property which reasonably requires the use of the device in order to protect the life, safety, health, or property of another person.

C. It shall be unlawful to advertise, offer for sale, sell, or otherwise distribute any traffic signal preemption device to any individual person in the Muscogee (Creek) Nation. Advertising, offering for sale, selling, or distribution of these devices shall be limited to trade publications and companies whose target market is law enforcement agencies, fire departments, and ambulance service providers of the Muscogee (Creek) Nation or its political subdivisions.

## **SUBCHAPTER 7. MISCELLANEOUS RULES OF DRIVING ON ROADWAY**

### **§ 3-701. Drive on Right Side of Roadway-Exceptions**

A. Upon all roadways of sufficient width a vehicle shall be driven upon the right half of the roadway, except as follows:

1. When overtaking and passing another vehicle proceeding in the same direction under the laws governing such movement;
2. When an obstruction exists making it necessary to drive to the left of the center of the highway; provided, any person so doing shall yield the right of way to all vehicles traveling in the proper direction upon the unobstructed portion of the highway within such distance as to constitute an immediate hazard;
3. Upon a roadway divided into three marked lanes for traffic under the laws applicable thereon;
4. Upon a roadway restricted to one-way traffic; or
5. Upon a roadway having four or more lanes for moving traffic and providing for two-way movement of traffic.

B. Upon all roadways any vehicle proceeding at less than the normal speed of traffic at the time and place and under the conditions then existing shall be driven in the right-hand lane when available for traffic, or as close as practicable to the right-hand curb or edge of the roadway and may be temporarily driven upon the right-hand shoulder for the purpose of permitting other vehicles to pass. This subsection shall not apply when overtaking and passing another vehicle proceeding in the same direction or when preparing for a left turn at an intersection or into a private road or driveway.

C. Upon any roadway having four or more lanes for moving traffic and providing for two-way movement or traffic, no vehicle shall be driven to the left of the center line of the roadway, except when authorized by official traffic control devices designating certain lanes to the left side of the center of the roadway for use by traffic not otherwise permitted to use such lanes, or except as permitted under paragraph 2 of subsection (A) of this section. However, this subsection shall not be construed as prohibiting the crossing of the center line in making a left turn into or from an alley, private road or driveway.

### **§ 3-702. Passing Vehicles Proceeding in Opposite Directions**

Drivers of vehicles proceeding in opposite directions shall pass each other to the right, and upon roadways having width for not more than one line of traffic in each direction each driver shall give to the other at least one-half (1/2) of the main traveled portion of the roadway as nearly as possible.

### **§ 3-703. Overtaking a Vehicle on the Left-Signal**

A. The following requirements shall govern the overtaking and passing of vehicles proceeding in the same direction, subject to those limitations, exceptions and special requirements hereinafter stated:

1. The driver of a vehicle overtaking another vehicle proceeding in the same direction shall pass to the left thereof at a safe distance and shall not again drive to the right side of the roadway until safely clear of the overtaken vehicle.
2. Except when overtaking and passing on the right is permitted, the driver of an overtaken vehicle shall give way in favor of the overtaking vehicle and shall not increase the speed of his vehicle until completely passed by the overtaking vehicle.
3. Every driver who intends to pass another vehicle proceeding in the same direction, which requires moving his vehicle from one lane of traffic to another, shall first see that such movement can be made with safety and shall proceed to pass only after giving a proper signal by hand or mechanical device.

### **§ 3-704. When Overtaking on the Right is Permitted**

A. The driver of a vehicle may overtake and pass upon the right of another vehicle only under the following conditions:

1. When the vehicle overtaken is making or about to make a left turn;
2. Upon a street or highway with unobstructed pavement not occupied by parked vehicles of sufficient width for two or more lines of moving vehicles in each direction;

3. Upon a one-way street, or upon any roadway on which traffic is restricted to one direction of movement, where the roadway is free from obstructions and of sufficient width for two or more lines of moving vehicles.

B. The driver of a vehicle may overtake and pass another vehicle upon the right only under conditions permitting such movement in safety. In no event shall such movement be made by driving off the pavement or main-traveled portion of the roadway.

### **§ 3-705. Limitations on Overtaking on the Left**

No vehicle shall be driven to the left side of the center of the roadway in overtaking and passing another vehicle proceeding in the same direction unless such left side is clearly visible and is free of oncoming traffic for a sufficient distance ahead to permit such overtaking and passing to be completely made without interfering with the safe operation of any vehicle approaching from the opposite direction or any vehicle overtaken. In every event the overtaking vehicle must return to the right-hand side of the roadway before coming within one hundred (100) feet of any vehicle approaching from the opposite direction.

### **§ 3-706. Further Limitations on Driving Left of Center of Roadway**

A. No vehicle shall be driven on the left side of the roadway under the following conditions:

1. When approaching or upon the crest of a grade or a curve in the highway where the driver's view is obstructed within such distance as to create a hazard in the event another vehicle might approach from the opposite direction;
2. When approaching within one hundred (100) feet of or traversing any intersection or railroad grade crossing unless otherwise indicated by official traffic control devices;

B. The foregoing limitations shall not apply upon a one-way roadway; nor under the conditions described in § 3-701 (A) 2. of this chapter, nor to the driver of a vehicle turning left into or from an alley, private road or driveway.

### **§ 3-707. Driving on Roadways Laned for Traffic**

A. Whenever any roadway has been divided into two or more clearly marked lanes for traffic, the following requirements in addition to all others consistent herewith shall apply.

1. A vehicle shall be driven as nearly as practicable entirely within a single lane.

2. A vehicle shall not be moved from the lane until the driver has first ascertained that the movement can be made with safety and then given a signal, not less than the last one hundred (100) feet traveled by the vehicle, of his intention to change lanes.
3. Upon a roadway which is divided into three lanes, a vehicle shall not be driven in the center lane except when overtaking and passing another vehicle where the roadway is clearly visible and the center lane is at the time allocated exclusively to traffic moving in the direction the vehicle is proceeding and is signposted to give notice of the allocation.
4. A two-way left-turn lane is a lane near the center of the highway set aside for use by vehicles making left turns in both directions from or into the roadway. Two-way left-turn lanes shall be designated by distinctive roadway markings consisting of parallel double yellow lines, interior line dashed and exterior line solid, on each side of the lane. A vehicle shall not be driven in a designated two-way left-turn lane except when preparing for or making a left turn from or into a roadway. Vehicles turning left from the roadway shall not be driven in the two-way left-turn lane for more than two hundred (200) feet while preparing for or making the turn. A vehicle turning left onto the roadway may utilize the two-way left-turn lane as a staging area by stopping and waiting for traffic proceeding in the same direction to clear before merging into the adjacent lanes of travel. A left turn shall not be made from any other lane where a two-way left-turn lane has been designated. Provided, however, this section shall not prohibit driving across a two-way left-turn lane when moving from a service drive onto such marked roadway.
5. Upon a roadway which is divided into four or more lanes, a vehicle shall not impede the normal flow of traffic by driving in the left lane; provided, however, this paragraph shall not prohibit driving in a lane other than the right-hand lane when traffic conditions or flow, or both, or road configuration, such as the potential of merging traffic, require the use of lanes other than the right-hand lane to maintain safe traffic conditions.
6. Official signs may be erected directing slow-moving traffic to use a designated lane or designating those lanes to be used by traffic moving in a particular direction regardless of the center of the roadway and drivers of vehicles shall obey the directions of every such sign. Any person convicted of violating any provision of this section shall be guilty of a misdemeanor and shall be punished as provided for in § 3-2501 of this chapter.

**§ 3-708. Following too Closely**

A. The driver of a motor vehicle shall not follow another vehicle more closely than is reasonable and prudent, having due regard for the speed of such vehicles and the traffic upon and the condition of the highway.

B. The driver of any truck or motor vehicle drawing another vehicle when traveling upon a roadway outside of a business or residential district and which is following another truck or motor vehicle drawing another vehicle shall, whenever conditions permit, leave sufficient space so that an overtaking vehicle may enter and occupy such space without danger, except that this shall not prevent a motor truck or motor vehicle drawing another vehicle from overtaking and passing any like vehicle or another vehicle.

### **§ 3-709. Driving on Divided Highways**

Whenever any highway has been divided into two or more roadways by leaving an intervening space or by a physical barrier or clearly indicated dividing section so constructed as to impede vehicular traffic, every vehicle shall be driven only upon the right-hand roadway unless directed or permitted to use another roadway by official traffic control devices or peace officers. No vehicle shall be driven over, across or within any such dividing space, barrier or section, except through a permanent opening in the dividing space, barrier or section or at a permanent cross-over or intersection as established unless specifically prohibited by public authority. No vehicle shall be driven over, across or within any temporary opening in a dividing space, barrier or section or at a temporary cross-over or intersection unless specifically authorized by a public authority or at the direction of a peace officer.

### **§ 3-710. Restricted Access**

No person shall drive a vehicle onto or from any controlled-access roadway except at such entrances and exits as are established by public authority.

### **§ 3-711. Approaching Stationary Emergency Vehicle or Licensed Wrecker Displaying Flashing Lights**

A. The driver of a motor vehicle, upon approaching a stationary authorized emergency vehicle or a licensed wrecker that is displaying a flashing combination red or blue light or any combination of red or blue lights, shall:

1. If traveling on a highway that consists of two or more lanes that carry traffic in the same direction of travel as that of the driver, the driver shall proceed with due caution and shall, if possible and with due regard to the road, weather, and traffic conditions, change lanes into a lane that is not adjacent to the stationary authorized emergency vehicle or licensed wrecker; or if the driver is not able to change lanes or if to do so would be unsafe, the driver shall proceed with due caution and reduce the speed of the motor vehicle to a safe speed for the existing road, weather, and traffic conditions; and
2. If traveling on a highway other than a highway described in paragraph 1 of this section, the driver shall proceed with due caution and reduce the

speed of the motor vehicle to a safe speed for the existing road, weather, and traffic conditions.

B. This section does not relieve the operator of a stationary authorized emergency vehicle or licensed wrecker from the consequences of reckless disregard for the safety of all persons and property upon the highway.

## **SUBCHAPTER 8. RIGHT OF WAY**

### **§ 3-801. Vehicle Approaching or Entering Intersection**

A. Whether a stop sign or yield sign is present, visible or not, the driver of a vehicle shall yield the right of way and shall not proceed until it is safe to do so, when the driver is:

1. On a road other than a state or federal highway upon approaching an intersection with a state or federal highway;
2. On a private drive or any road not maintained by a governmental entity upon approaching an intersection with a state or federal highway or county road;
3. On an unpaved county road upon approaching an intersection with a paved county road; or
4. On a county road, which ends at, merges with, or does not otherwise continue directly across an intersecting through county road, upon approaching the intersection with the through county road.

B. When two vehicles enter or approach an intersection from different highways at approximately the same time, except as provided in subsection A of this section, the driver of the vehicle on the left shall yield the right of way to the vehicle on the right.

C. The right of way rules declared in subsections A and B of this section are modified as through highways and otherwise as hereinafter stated in this chapter.

D. For purposes of this subchapter, "paved road" means a road improved with a surface of concrete, asphalt, or what is commonly referred to as oil and chip, and "unpaved road" means all other roads. "State or federal highway" means a paved road maintained by the State of Oklahoma. "County road" means a road whether paved or unpaved that is maintained by any county government agency, department or entity of the State of Oklahoma.

### **§ 3-802. Vehicle Turning Left at Intersection**



The driver of a vehicle intending to turn to the left shall yield the right of way to any vehicle approaching from the opposite direction which is so close thereto when initiating such turn as to constitute an immediate hazard.

**§ 3-803. Vehicle Entering Stop of Yield Intersection**

A. Preferential right of way at an intersection may be indicated by stop signs or yield signs as authorized in § 3-1101 of this chapter.

B. Except when directed to proceed by a police officer or traffic control signal, every driver of a vehicle approaching a stop intersection indicated by a stop sign shall stop as required by § 3-1101 (D) of this chapter and after having stopped shall yield the right of way to any vehicle which has entered the intersection from another highway or which is approaching so closely on said highway as to constitute an immediate hazard, but said driver having so yielded may proceed and the drivers of all other vehicles approaching the intersection shall yield the right of way to the vehicle so proceeding.

C. The driver of a vehicle approaching a yield sign shall in obedience to such sign slow down to a speed reasonable for the existing conditions, or shall stop if necessary as provided in § 3-1101 (E) of this chapter, and shall yield the right of way to any pedestrian legally crossing the roadway on which the driver is driving, and to any vehicle in the intersection or approaching on another highway so closely as to constitute an immediate hazard. Said driver having so yielded may proceed and the drivers of all other vehicles approaching the intersection shall yield to the vehicle so proceeding, provided, however, that if such driver is involved in a collision with a pedestrian in a crosswalk or vehicle in the intersection after driving past a yield sign without stopping, such collision shall be deemed prima facie evidence of the driver's failure to yield the right of way.

D. Where two or more vehicles face stop, slow, warning or caution signs or signals on two or more intersecting cross streets, and are approaching so as to enter the intersection at the same time, where each vehicle is required to stop, the vehicle coming from the right shall have the right of way. Where each vehicle is required to slow, the vehicle coming from the right shall have the right of way. Where each vehicle is required to take caution, the vehicle coming from the right shall have the right of way. Where one vehicle is required to stop and the other to slow or take caution, the one slowing or taking caution shall have the right of way. Where one vehicle is required to slow and the other to take caution, the one required to take caution shall have the right of way. In the event, a vehicle which has already entered the intersection shall have the right of way over one which has not so entered the intersection.

**§ 3-804. Vehicle Entering Highway from Private Road or Driveway**

The driver of a vehicle about to enter or cross a highway from a private road or driveway shall yield the right of way to all vehicles approaching on said highway.

**§ 3-805. Operation of Vehicles on Approach of Authorized Emergency Vehicles**

A. Upon the immediate approach of an authorized emergency vehicle making use of audible and visual signals or of a police vehicle properly and lawfully making use of an audible signal or red flashing lights, the driver of every of other vehicle shall yield the right of way and shall immediately drive to a position parallel to, and as close as possible to, the right-hand edge or curb of the roadway clear of any intersection and shall stop and remain in such position until the authorized emergency vehicle has passed, except when otherwise directed by a police officer.

B. This section shall not be construed to require a peace officer operating a police vehicle properly and lawfully in response to a crime in progress to use audible signals nor shall this section operate to relieve the driver of an authorized emergency vehicle from the duty to drive with due regard for the safety of all persons using the road or highway.

**§ 3-806. Farm Tractors or Implements—Operation on Highways**

A. A farm tractor, or any implement of husbandry, except trailers and semitrailers when operated in accordance with statutory limits or provisions of this chapter, may be operated on any roadway in the Muscogee (Creek) Nation if the operator has attached all the safety devices required by law and has taken reasonable steps to reduce the width of a farm tractor or implement as provided for by the manufacturer. Whenever the width of a farm tractor or implement of husbandry exceeds the width of that portion of a roadway on which the tractor or implement is driven, which is marked as a single lane of traffic, or, if the roadway has not been marked for lanes of traffic and the width of the tractor or implement exceeds more than fifty percent (50%) of the width of the roadway, the operator shall move the tractor or implement, as soon as possible, as far to the right-hand side of the roadway as is practicable and safe upon approach of any oncoming or following vehicle and upon approaching the crest of a hill.

B. Upon the immediate approach of a farm tractor or implement of husbandry which cannot be moved by the operator thereof to the far right-hand side of the roadway, as required in subsection A of this section, due to the existence of any bridge or guardrail, sign or any other physical impediment which would not safely allow such tractor or implement to travel on the far right-hand side of the road, the driver of every other vehicle shall yield the right of way and shall immediately pull over to the far right-hand side of the road and remain in such positions until the tractor or implement has passed.

C. This section shall not operate to relieve any operator of a farm tractor or implement of husbandry from the duty to drive with due regard for the safety of all persons using the roadway.

**SUBCHAPTER 9. PEDESTRIANS**

**§ 3-901. Pedestrians Subject to Traffic Regulations**

A. A pedestrian shall obey the instructions of any official traffic control device specifically applicable to him or her, unless otherwise directed by a police officer.

B. Pedestrians shall be subject to traffic and pedestrian-control signals as provided in §§ 3-602 and 3-603 of this chapter.

C. At all other places pedestrians shall be accorded the privileges and shall be subject to the restrictions stated in this subchapter.

**§ 3-902. Rights and Duties of Persons Operating Wheelchair or Motorized Wheelchair**

Every person operating a wheelchair or a motorized wheelchair shall have all of the rights and all of the duties applicable to a pedestrian contained in this chapter except those provisions which by their nature can have no application.

**§ 3-903. Pedestrians' Right of Way in Crosswalks**

A. When traffic control signals are not in place or not in operation, the driver of a vehicle shall yield the right of way, slowing down or stopping if need be to so yield, to a pedestrian crossing the roadway within a crosswalk when the pedestrian is upon the half of the roadway upon which the vehicle is traveling, or when the pedestrian is approaching so closely from the opposite half of the roadway as to be in danger.

B. No pedestrian shall suddenly leave a curb or other place of safety and walk or run into the path of a vehicle which is so close that it is impossible for the driver to yield.

C. Paragraph A shall not apply under the conditions in § 3-904 (A).

D. Whenever any vehicle is stopped at a marked crosswalk or at any unmarked crosswalk at an intersection to permit a pedestrian to cross the roadway, the driver of any other vehicle approaching from the rear shall not overtake and pass such stopped vehicle.

**§ 3-904. Crossing at Other than Crosswalks**

A. Every pedestrian crossing a roadway at any point other than within a marked crosswalk or within an unmarked crosswalk at an intersection shall yield the right of way to all vehicles upon the roadway.

B. Any pedestrian crossing a roadway at a point where a pedestrian tunnel or overhead pedestrian crossing has been provided shall yield the right of way to all vehicles upon the roadway.

C. Between adjacent intersections at which traffic control signals are in operation pedestrians shall not cross at any place except in a marked crosswalk.

**§ 3-905. Drivers to Exercise Due Care**

Notwithstanding the foregoing provisions of this chapter, every driver of a vehicle shall exercise due care to avoid colliding with any pedestrian upon any roadway and shall give warning by sounding the horn when necessary and shall exercise proper precaution upon observing any child or any confused or incapacitated person upon a roadway.

**§ 3-906. Pedestrians on Roadways or Bridges**

A. Where sidewalks are provided, it shall be unlawful for any pedestrian to walk along and upon an adjacent roadway.

B. Where sidewalks are not provided, any pedestrian walking along and upon a highway shall, when practicable, walk only on the left side of the roadway or its shoulder facing traffic which may approach from the opposite direction and shall yield to approaching vehicles.

C. It shall be unlawful for any person to enter upon any portion of a bridge for the purpose of diving or jumping therefrom into a lake, river or stream for recreation, and it shall be unlawful for a pedestrian to use a bridge where sidewalks are not provided for the purpose of standing or sightseeing.

**§ 3-907. Pedestrians Soliciting Rides or Business**

No person shall stand in a roadway for the purpose of soliciting a ride, donation, employment or business from the occupant of any vehicle.

**SUBCHAPTER 10. TURNING AND STARTING AND SIGNALS ON STOPPING AND TURNING**

**§ 3-1001. Required Positions and Method of Turning at Intersection**

A. The driver of a vehicle intending to turn at an intersection shall do so as follows:

1. Right turns. Both the approach for a right turn and a right turn shall be made as close as practicable to the right-hand curb or edge of the roadway.
2. Left turns. The driver of a vehicle intending to turn left at an intersection shall approach the intersection in the extreme left-hand lane lawfully available to traffic moving in the direction of travel of such vehicle. After

entering the intersection, the left turn shall be made so as to leave the intersection, as nearly as practicable, in the left-hand lane lawfully available to traffic moving in such direction upon the roadway being entered. Whenever practicable, when leaving a two-way roadway, the left turn shall be made in that portion of the intersection to the left of the center of the intersection.

3. Markers, buttons or signs may be placed within or adjacent to intersections and thereby require and direct that a different course from that specified in this section be traveled by vehicles turning at an intersection, and when markers, buttons or signs are so placed no driver of a vehicle shall turn a vehicle at an intersection other than as directed and required by such markers, buttons or signs.

**§ 3-1002. Turning to Proceed in Opposite Direction—Turns on Curve or Near Crest of Grade Prohibited**

A. Unless otherwise prohibited by law, the driver of a vehicle shall not turn the vehicle so as to proceed in the opposite direction unless and until such movement can be made with reasonable safety and without interfering with other traffic.

B. No vehicle shall be turned so as to proceed in the opposite direction upon any curve, or upon the approach to or near the crest of a grade, where such vehicle cannot be seen by the driver of any other vehicle approaching from either direction within five hundred (500) feet.

**§ 3-1003. Starting a Parked Vehicle**

No person shall start a vehicle which is stopped, standing or parked unless and until such movement can be made with reasonable safety.

**§ 3-1004. Turning Movements and Required Signals—Passing Person Attempting a Left Turn**

A. No person shall turn a vehicle at an intersection, a public or private road, or a driveway, unless the vehicle is in proper position upon the roadway as required in § 3-1001 of this chapter, or move right or left upon a roadway unless and until such movement can be made with reasonable safety. No person shall so turn any vehicle without giving an appropriate signal as provided in subsection B of this section, in the event any other traffic may be affected by such movement.

B. A signal of intention to turn right or left as required by law shall be given continuously during not less than the last one hundred (100) feet traveled by the vehicle before turning.

C. No person shall stop or suddenly decrease the speed of a vehicle without first giving an appropriate signal in the manner provided in subsection B of this section to the driver of any vehicle immediately to the rear when there is opportunity to give such signal.

D. When any person is properly preparing for, attempting or executing a left turn, as described in subsection A of this section, no other person operating another vehicle immediately following the turning vehicle shall pass or attempt to pass the turning vehicle to the left. Such other person shall come to a complete stop if necessary at a safe distance behind the person preparing for, attempting or executing the turn or may proceed to the right of the turning vehicle as provided by § 3-704 of this chapter.

### **§ 3-1005. Signals by Hand and Arm or Signal Lamps**

A. Any stop or turn signal when required herein shall be given either by means of the hand and arm or by signal lamps, except as otherwise provided in paragraph B.

B. Any motor vehicle in use on a highway shall be equipped with, and required signal shall be given by, signal lamps when the distance from the center of the top of the steering post to the left outside limit of the body cab or load of such motor vehicle exceeds twenty-four (24) inches, or when the distance from the center of the top of the steering post to the rear limit of the body or load thereof exceeds fourteen (14) feet. The latter measurement shall apply to any single vehicle, also to any combination of vehicles.

## **SUBCHAPTER 11. SPECIAL STOPS REQUIRED**

### **§ 3-1101. Stop Signs and Yield Signs**

A. Preferential right of way at an intersection may be indicated by stop signs or yield signs as authorized in this chapter.

B. Every stop sign and every yield sign shall be erected as near as practicable to the nearest line of the crosswalk on the near side of the intersection or, if there is no crosswalk then as near as practicable to the nearest line of the intersecting roadway, however such yield signs shall not be erected upon the approaches of but one of the intersecting streets.

C. Every stop sign shall bear the word "Stop". Every yield sign hereafter erected or replaced shall bear the word "Yield". Every stop sign and every yield sign shall at nighttime be rendered luminous by internal illumination, or by floodlight projected on the face of the sign or by efficient reflecting elements in or on the face of the sign.

D. Except when directed to proceed by a police officer or traffic control signal, every driver of a vehicle approaching a stop intersection indicated by a stop sign shall stop before entering the crosswalk on the near side of the intersection or, in the event



there is no crosswalk, shall stop at a clearly-marked stop line, but if none, then at the point nearest the intersecting roadway where the driver has a view of approaching traffic on the intersecting roadway before entering the intersection.

E. The driver of a vehicle approaching a yield sign if required for safety to stop shall stop before entering the crosswalk on the near side of the intersection or, in the event there is no crosswalk, at a clearly-marked stop line, but if none, then at the point nearest the intersecting roadway where the driver has a view of approaching traffic on the intersecting roadway.

### **§ 3-1102. Emerging from Alley, Driveway or Building**

The driver of a vehicle within a business or residence district emerging from an alley, driveway or building shall stop such vehicle immediately prior to driving onto a sidewalk or onto the sidewalk area extending across any alleyway or driveway, and shall yield the right of way to any pedestrian as may be necessary to avoid collision, and upon entering the roadway shall yield the right of way to all vehicles approaching on said highway.

### **§ 3-1103. Meeting or Overtaking Stopped School Bus**

A. The driver of a vehicle meeting or overtaking a school bus that is stopped to take on or discharge school children or employees or volunteers of a school, and on which the red loading signals are in operation, is to stop the vehicle before it reaches the school bus and not proceed until the loading signals are deactivated and then proceed past such school bus at a speed which is reasonable and with due caution for the safety of such school children and other occupants. Any person convicted of violating the provisions of this section shall be punished by a fine of not less than One Hundred Dollars (\$100.00) nor more than One Thousand Dollars (\$1,000.00).

B. Visual signals shall be actuated by the driver of said school bus whenever, but only whenever, such vehicle is stopped for the purpose of receiving or discharging school children or employees or volunteers of a school.

C. The driver of a vehicle upon a highway with separate roadways need not stop upon meeting or passing a school bus which is on a different roadway or when upon a controlled-access highway and the school bus is stopped in a loading zone which is part of or adjacent to such highway and where pedestrians are not permitted to cross the roadway.

## **SUBCHAPTER 12 SPEED RESTRICTIONS**

### **§ 3-1201. Basic Rule—Maximum and Minimum Limits—Fines and Penalties**

A. Any person driving a vehicle on a highway shall drive the same at a careful and prudent speed not greater than nor less than is reasonable and proper, having due

regard to the traffic, surface and width of the highway and any other conditions then existing. No person shall drive any vehicle upon a highway at a speed greater than will permit the driver to bring it to a stop within the assured clear distance ahead.

B. Except when a special hazard exists that requires lower speed for compliance with § 3-1201 (A), the limits specified by law or posted by appropriate signage on or immediately next to the roadway shall be the maximum lawful speed and no person shall drive a vehicle on a highway at a speed in excess of the maximum limits.

C. On all roads where the speed limits are not posted, fifty-five (55) miles per hour shall be the maximum speed limits.

D. It shall be a violation of this section to drive any vehicle at a faster rate of speed than such prescribed maximum or at a lower rate of speed than such prescribed minimum. However, all vehicles shall at all times conform to the limits set forth in subsection A of this section.

E. The driver of every vehicle shall, consistent with the requirements of subsection A of this section, drive at an appropriate reduced speed when approaching and crossing an intersection or railway grade crossing, when approaching and going around a curve, when approaching a hillcrest, when driving upon any narrow or winding roadway, and when special hazard exists with respect to pedestrians or other traffic, or by reason of weather or highway conditions.

F. Any person convicted of speeding violation pursuant to this section shall be punished by a fine as follows:

1. One to ten miles per hour over the limit: \$75.00
2. Eleven to fifteen miles per hour over the limit: \$100.00
3. Sixteen to twenty-five miles over the limit: \$150.00
4. Twenty-six miles per hour or more over the limit: \$250.00

### **§ 3-1202. Minimum Speed Regulations**

No person shall drive a motor vehicle at such a slow speed as to impede the normal and reasonable movement of traffic except when reduced speed is necessary for safe operation or in compliance with law.

### **§ 3-1203. Speed Limitation on Motorcycles, Motor-Driven Cycles, and Motorized Scooters**

A. No person shall operate any motorcycle at a speed greater than the legally posted speed limit; provided, in no event nor at any time shall an operator under the age of sixteen (16) years drive a motorcycle on a highway which has a minimum speed limit established and posted.

B. No person shall operate any motor-driven cycle at a speed greater than the legally posted speed limit; provided, in no event nor at any time shall any operator drive a motor-driven cycle at a speed greater than thirty-five (35) miles per hour.

C. No person shall operate a motorized scooter at a speed greater than the legally posted speed limit; provided, in no event nor at any time shall any operator drive a motorized scooter:

1. At a speed greater than twenty-five (25) miles per hour: and
2. On any roadway with a posted speed limit of greater than twenty-five (25) miles per hour.

**§ 3-1204. Low-speed Electrical Vehicles—Restrictions of Operation**

A. No person shall operate any low-speed electrical vehicle on any street or highway with a posted speed limit greater than thirty-five (35) miles per hour.

B. The provisions of subsection A of this section shall not prohibit a low-speed vehicle from crossing a street or highway with a posted speed limit greater than thirty-five (35) miles per hour.

**§ 3-1205. Electric-assisted Bicycle Operators**

A. Notwithstanding any other provisions of law, operators of electric-assisted bicycles, shall:

1. Possess a valid driver's license, but shall be exempt from a motorcycle endorsement;
2. Not be subject to motor vehicle liability insurance requirements except only as they pertain to the operation of electric-assisted bicycles;
3. Be authorized to operate an electric-assisted bicycle wherever bicycles are authorized to be operated;
4. Be prohibited from operating an electric-assisted bicycle wherever bicycles are prohibited from operating; and
5. Wear a proper fitted and fastened bicycle helmet which meets the standards of the American National Standards Institute or the Snell Memorial Foundation Standards for protective headgear for use in bicycling, provided such operator is eighteen (18) years of age or less.

**§ 3-1206. Electric Personal Assistive Mobility Devices**

A. Notwithstanding any other provisions of law, an electric personal assistive mobility device shall not be operated on the highways of the Muscogee (Creek) Nation except as provided in subsection B of this section.

B. An electric personal assistive mobility device may be operated upon the sidewalks, walking trails and bikeways of the Muscogee (Creek) Nation.

C. A person operating an electric personal assistive mobility device shall:

1. not be required to have a driver license to operate the device;
2. obey all speed limits;
3. yield the right of way to pedestrians and human powered devices at all times;
4. give an audible signal before overtaking and passing any pedestrians;  
and
5. wear or equip the electric personal assistive mobility device with reflectors and a headlight when operating at night.

D. Failure to comply with any requirement set forth in § 3-1206 (C) shall result in a warning for the first offense, a fine of ten dollars (\$10.00) for the second offense, and a fine of twenty-five (\$25.00) or impoundment of the electric personal assistive mobility device for up to thirty (30) days for third and subsequent offenses. Each act of noncompliance shall be considered a separate offense.

### **§ 3-1207. Reduced Speed Limit at Certain Times in School Zone**

Where any portion of a road, street, or highway is a properly marked school zone, as indicated with appropriate warning signs placed in accordance with the latest edition of the Manual on Uniform Traffic Control Devices, and a reduced speed limit as properly posted, shall be in effect during certain times due to the presence or potential presence of school children, no person shall drive any vehicle upon that portion of the highway which is the school zone in excess of the reduced speed limit so posted when the reduced speed limit is in effect. Violation of the posted reduced speed limit in the school zone shall result in the doubling of the appropriate fine.

## **SUBCHAPTER 13. RECKLESS DRIVING, DRIVING WHILE INTOXICATED AND NEGLIGENT HOMICIDE**

### **§ 3-1301. Reckless Driving**

A. It shall be deemed reckless driving for any person to drive a motor vehicle in a careless or wanton manner without regard for the safety of persons or property or in violation of the conditions outlined in § 3-1201 of this chapter.

B. Every person convicted of reckless driving shall be punished upon a first conviction by a fine of not less than One Hundred Dollars (\$100.00) nor more than Five Hundred Dollars (\$500.00), or by imprisonment for a period of not less than three (3) days nor more than thirty (30) days, or by both such fine and imprisonment; on a second or subsequent conviction, punishment shall be by a fine of not less than Two Hundred Dollars (\$200.00) nor more than One Thousand Dollars (\$1,000.00) or by imprisonment for not less than seven (7) days nor more than six (6) months, or by both such fine and imprisonment.

**§ 3-1302. Full Time and Attention to Driving**

A. The operator of every vehicle, while driving, shall devote their full time and attention to such driving.

B. No law enforcement officer shall issue a citation under this section unless the law enforcement officer observes that the operator of the vehicle is involved in an accident or observes the operator of the vehicle driving in such a manner that poses an articulable danger to other persons on the roadway that is not otherwise specified by ordinance.

**§ 3-1303. Unlawful Use of a Cellular Telephone**

A. It shall be unlawful for a person to operate a motor vehicle on any street or highway within the Muscogee (Creek) Nation while using a cellular telephone or electronic communication device to write, send or read a text-based communication while the motor vehicle is in motion.

B. Any person who violates the provisions of § 3-1303 (A) shall, upon conviction, be guilty of a misdemeanor punishable by a fine of Two-Hundred Fifty Dollars (\$250.00).

**§ 3-1304. Persons Under the Influence of Alcohol or Other Intoxicating Substances or Combination thereof**

A. It is unlawful and punishable as provided in this section for any person to drive, operate, or be in actual physical control of a motor vehicle within the Muscogee (Creek) Nation, whether upon public roads, highways, streets, turnpikes, or lane which provides access to one or more single or multi-family dwellings, who:

1. Has a blood or breath alcohol concentration, as defined in § 3-2705 of this chapter, of eight-hundredths (0.08) or more at the time of a test of such person's blood or breath administered within two (2) hours after the arrest of such person;
2. Is under the influence of alcohol;

3. Is under the influence of any intoxicating substance other than alcohol which may render such person incapable of safely driving or operating a motor vehicle; or
4. Is under the combined influence of alcohol and any other intoxicating substance which may render such person incapable of safely driving or operating a motor vehicle.

B. The fact that any person charged with a violation of this section is or has been lawfully entitled to use alcohol or a controlled dangerous substance or any other intoxicating substance shall not constitute a defense against any charge of violating this section.

C. Any person who is convicted of a violation of the provisions of this section shall be deemed guilty of a misdemeanor for the first offense and shall participate in a drug and alcohol assessment and evaluation and shall follow all recommendations made in the assessment and evaluation and be punished by imprisonment for not less than ten (10) days nor more than one (1) year. Any person convicted of a violation for a first offense shall be fined not more than One Thousand Dollars (\$1,000.00).

D. Any person who, after a previous conviction of a violation of this section or a violation pursuant to the provisions of any law of another Indian tribe or state prohibiting the offense provided in § 1304 (A), is convicted of a second offense pursuant to the provisions of this section or has a prior conviction in a municipal criminal court of record for the violation of a municipal ordinance prohibiting the offense provided for in subsection A of this section and is convicted pursuant to the provision of this section shall be deemed guilty of a felony and shall participate in a drug and alcohol assessment and evaluation, and shall be sentenced to:

1. follow all recommendations made in the assessment and evaluation for treatment at the defendant's expense; or
2. imprisonment for not less than one (1) year and not to exceed three (3) years and a fine of not more than Two Thousand Five Hundred Dollars (\$2,500.00); or
3. treatment, imprisonment and a fine within the limitations prescribed in subparagraphs 1. and 2. of this paragraph.

E. Any person who is convicted of a third or subsequent misdemeanor offense pursuant to the provisions of this section shall participate in a drug and alcohol assessment and evaluation and shall be sentenced to:

1. follow all recommendations made in the assessment and evaluation for treatment at the defendant's expense and use of an ignition interlock device; or
2. imprisonment for not less than three (3) years and a fine of not more than Five Thousand Dollars (\$5,000.00); or

3. treatment, imprisonment and a fine within the limitations prescribed in subparagraphs 1. and 2. of this paragraph.

F. Any person who is found guilty of a violation of the provisions of this section may be required by the court to attend a victims impact panel program, if such a program is offered, and to pay a fee as set by the governing authority of the program and approved by the court, to the program to offset the cost of participation by the defendant, if in the opinion of the court the defendant has the ability to pay such fee.

**§ 3-1305. Allowing Use of Motor Vehicle without Ignition Interlock Device—Disabling or Disconnecting Device**

A. No person shall knowingly authorize or permit a motor vehicle owned or under the control of that person which is not equipped with an ignition interlock device to be driven upon any street or highway of the Muscogee (Creek) Nation by any person who is required to have an ignition interlock device installed upon the vehicle of that person.

B. No person shall make an overt or conscious attempt to physically disable, disconnect or wire around an ignition interlock device, or intentionally fail to return an ignition interlock device when it is no longer required in the vehicle or upon request by the owner of the device.

C. A violation of this section shall be a misdemeanor and shall be punishable by a fine of not more than Five Hundred Dollars (\$500.00) or by imprisonment for not more than six months, or by both such fine and imprisonment.

**§ 3-1306. Negligent Homicide**

A. When the death of any person ensues within one (1) year as a proximate result of injury received by the driving of any vehicle by any person in reckless disregard of the safety of others, the person so operating such vehicle shall be guilty of negligent homicide.

B. Any person convicted of negligent homicide shall be punished by imprisonment for not more than one (1) year or by fine of not less than One Hundred Dollars (\$100.00) or more than Five Thousand Dollars (\$5,000.00), or by both such fine and imprisonment.

**§ 3-1307. Person Involved in Personal Injury Accident While Under the Influence of Alcohol or Other Intoxicating Substance—Causing Great Bodily Injury**

A. Any person who is involved in a personal injury accident while driving or operating a motor vehicle within the Muscogee (Creek) Nation and who is in violation of the provisions of § 3-1304 (A) of this chapter may be charged with a violation of the provisions of this section as follows:



1. Any person who is convicted of a violation of the provisions of this section shall be deemed guilty of a misdemeanor and shall be punished by imprisonment for not less than ninety (90) days nor more than one (1) year, and a fine of not more than Two Thousand Five Hundred Dollars (\$2,500.00); and
2. Any person who is convicted of a violation of the provisions of this section or of § 3-1304 of this chapter shall be deemed guilty of a felony and shall be punished by imprisonment for not less than one (1) year and not more than three (3) years, and a fine of not more than Five Thousand Dollars (\$5,000.00).

B. Any person who causes an accident resulting in great bodily injury to any person other than himself while driving or operating a motor vehicle within the Muscogee (Creek) Nation and who is in violation of the provisions of § 3-1304 (A) of this chapter may be charged with a violation of the provisions of this subsection. Any person who is convicted of a violation of the provisions of this subsection shall be deemed guilty of a felony punishable by imprisonment for not less than one (1) year, and a fine of not more than Five Thousand Dollars (\$5,000.00).

C. As used in this section, "great bodily injury" means bodily injury which creates a substantial risk of death or which causes serious, permanent disfigurement or protracted loss or impairment of the function of any bodily member or organ.

**§ 3-1308. Person Involved in Personal Injury Accident without a Valid Driver License—Causing Great Bodily Injury—Causing Death**

A. Any person who, while operating a vehicle within the Muscogee (Creek) Nation without a valid driver license for the class of vehicle being operated, or while knowingly disqualified to operate a motor vehicle, or while such person knows or should have known that his or her driver license is canceled, denied, suspended or revoked, causes an accident which results in personal injury to any other person, may be charged with a violation of the provisions of this section. Any person who is convicted of a violation of the provisions of this subsection shall be deemed guilty of a misdemeanor punishable by imprisonment for a term not more than one (1) year, or by a fine in an amount not exceeding Two Thousand Dollars (\$2,000.00), or by both such fine and imprisonment.

B. Any person who, while operating a vehicle within the Muscogee (Creek) Nation without a valid driver license for the class of vehicle being operated, or while knowingly disqualified to operate a motor vehicle, or while such person knows or should have known that his or her driver license is canceled, denied, suspended or revoked, causes an accident resulting in great bodily injury to any other person, may be charged with a violation of the provisions of this subsection. Any person who is convicted of a violation of the provisions of this subsection shall be deemed guilty of a felony punishable

by imprisonment for a term not more than three years, or by a fine in an amount not exceeding Three Thousand Dollars (\$3,000.00), or by both such fine and imprisonment.

C. Any person who, while operating a vehicle within the Muscogee (Creek) Nation without a valid driver license for the class of vehicle being operated, or while knowingly disqualified to operate a motor vehicle, or while such person knows or should have known that his or her driver license is canceled, denied, suspended or revoked, causes an accident resulting in the death of any other person, may be charged with a violation of the provisions of this subsection. Any person who is convicted of a violation of the provisions of this subsection shall be deemed guilty of a felony punishable by imprisonment for a term not more than three (3) years, or by a fine in an amount not exceeding Five Thousand Dollars (\$5,000.00), or by both such fine and imprisonment.

D. As used in this section, "great bodily injury" means bodily injury which creates a substantial risk of death or which causes serious, permanent disfigurement or protracted loss or impairment of the function of any bodily member or organ.

E. The provisions of this section may be charged in addition to any other chargeable offense allowed by law.

**§ 3-1309. Operating or being in Actual Physical Control of Motor Vehicle While under the Influence while under age**

A. It is unlawful, and punishable as provided in subsection B of this section, for any person under twenty-one (21) years of age to drive, operate, or be in actual physical control of a motor vehicle within the Muscogee (Creek) Nation who:

1. Has any measurable quantity of alcohol in the person's blood or breath at the time of a test administered within two (2) hours after an arrest of the person;
2. Exhibits evidence of being under the influence of any other intoxicating substance as shown by analysis of a specimen of the person's blood, breath, saliva, or urine in accordance with the provisions of §§ 3-2702 and 3-2707 of this chapter; or
3. Exhibits evidence of the combined influence of alcohol and any other intoxicating substance.

B. Any person under twenty-one (21) years of age who violates any provision of this section, upon conviction, shall be guilty of operating or being in actual physical control of a motor vehicle while under the influence while under age and shall be punished:

1. For a first offense, by a fine of not less than One Hundred Dollars (\$100.00) nor more than Five Hundred Dollars (\$500.00), or by assignment to and completion of twenty (20) hours of community

service, or by requiring the person to attend and complete a treatment program, or by any combination of fine, community service, or treatment.

2. Upon a second or subsequent conviction, by assignment to and completion of not less than two hundred forty (240) hours of community service or by imprisonment for up to one year. In addition, a second conviction may be punished by a fine of not less than One Hundred Dollars (\$100.00) nor more than Five Thousand Dollars (\$5,000.00), or by requiring the person to attend and complete a treatment program, as recommended by the assessment required pursuant to this section, or by both.

C. The court may assess additional community service hours in lieu of any fine specified in this section.

D. Nothing contained in this section shall be construed to prohibit the filing of charges under this chapter when the facts warrant.

#### **SUBCHAPTER 14. STOPPING, STANDING AND PARKING**

##### **§ 3-1401. Stopping, Standing or Parking Outside of Business or Residence District**

A. Upon any highway outside of a business or residence district no person shall stop, park or leave standing any vehicle, whether attended or unattended, upon the paved or main-traveled part of the highway when it is practicable to stop, park or so leave such vehicle off such part of said highway, but in every event an unobstructed width of the highway opposite a standing vehicle shall be left for the free passage of other vehicles and a clear view of such stopped vehicles shall be available from a distance of four hundred (400) feet in each direction upon such highway.

B. As used in this section and § 3-1402 of this chapter, "highway" means any public road, street, or turnpike used for vehicular travel.

C. Nothing in this section shall be construed to relieve any person from complying with § 3-404 of this chapter.

D. Any person violating this section shall, upon conviction, be guilty of a misdemeanor and shall be punished as provided for in § 3-709 of this chapter.

##### **§ 3-1402. Officers Authorized to Remove Illegally Stopped Vehicle**

A. Whenever any police officer finds a vehicle standing upon a highway in violation of any of the provisions of § 3-1401 (A) of this chapter, such officer is hereby authorized to move such vehicle, or require the driver or other person in charge of the vehicle to move the same, to a position off the paved or main-traveled part of such highway.

B. Law enforcement officers, using reasonable care, may remove from the roadway to the nearest safe place any disabled or damaged vehicle or cargo.

C. Absent a showing of gross negligence, the law enforcement officer, the employing agency, or any person acting under the direction of law enforcement is not liable to damage to a vehicle or damage or loss to any portion of the contents or cargo of the vehicle when carrying out the provisions of this section.

D. Whenever any police officer finds a vehicle unattended upon a bridge or causeway or in any underpass where such vehicle constitutes an obstruction to traffic, such officer is hereby authorized to provide for the removal of such vehicle to the nearest garage or other place of safety.

E. When any vehicle is left standing or abandoned upon a highway in violation of this section and at such a place or in such manner as to interfere or prevent the maintenance of said highway, highway authorities or their authorized agents may remove such vehicle or request the driver or other persons in charge thereof to move the same to some place of safety off the highway with charge to the owner of the vehicle.

### **§ 3-1403. Stopping, Standing or Parking Prohibited in Specified Places**

A. No person shall stop, stand or park a vehicle, except when necessary to avoid conflict other traffic or in compliance with law or the directions of a police officer or traffic control device, in any of the following places:

1. On a sidewalk;
2. In front of a public or private driveway;
3. Within fifteen (15) feet of a fire hydrant;
4. Within an intersection;
5. On a crosswalk;
6. Within twenty (20) feet of a crosswalk at an intersection;
7. Within thirty (30) feet upon the approach to any flashing beacon, stop sign or traffic control signal located at the side of a roadway;
8. Between a safety zone and the adjacent curb or within thirty (30) feet of points on the curb immediately opposite the ends of a safety zone;
9. Within fifty (50) feet of the nearest rail of a railroad crossing;
10. Alongside or opposite any street excavation or obstruction when stopping, standing or parking would obstruct traffic;
11. On the roadway side of any vehicle stopped or parked at the edge or curb of a street;
12. Upon any bridge or other elevated structure upon a highway or within a highway underpass;
13. At any place where official signs prohibit stopping.

B. No person shall move a vehicle not lawfully under the control of the person into any prohibited area or away from a curb such distance is unlawful.

**§ 3-1404. Additional Parking Regulations**

Except as otherwise provided in this section, every vehicle stopped or parked upon a roadway where there are adjacent curbs shall be so stopped or parked with the right-hand wheels of such vehicle parallel to and within eighteen (18) inches of the right-hand curb.

**§ 3-1405. Authorized Emergency Vehicles; Vehicles Used in Construction or Maintenance of Highways—Excepted from Certain Provisions**

Provisions of this subchapter shall not apply to authorized emergency vehicles or to vehicles or machinery used in the construction or maintenance of highways, and such vehicles or machinery may be operated on any part of the road, whether same is open to traffic or closed, when such operation is necessary in the maintenance or construction of said highway; provided, that the proper authorities shall protect all such operations with adequate warnings, signs, signals, lights, devices, or flagmen.

**§ 3-1406. Parking Areas for Physically Disabled Persons—Penalties**

A. It shall be unlawful for any person to place or park a motor vehicle in any parking space that is designated and posted as a reserved area for the parking of a motor vehicle operated by or transporting a physically disabled person unless such person has applied for and been issued a detachable placard indicating physical disability and such placard is displayed, or has applied for and been issued a physically disabled license plate, and such license plate is displayed upon the vehicle.

B. It shall also be unlawful for any person to place or park a motor vehicle, whether with or without a physically disabled placard or plate, in any disabled parking space access aisle, wheelchair ramp, wheelchair loading/unloading area or any portion thereof.

C. Violation of these provisions shall be a misdemeanor and upon conviction the person shall be fined Two Hundred Fifty Dollars (\$250.00). Provided, any person cited for a first offense of a violation of this section who has displayed a placard which has expired shall be entitled to dismissal of such charge and shall not be required to pay the fine or court costs if the person presents to the court within thirty (30) days of the issuance of the citation a notice that the person has obtained a valid placard.

D. In addition, vehicles unlawfully parked in violation of these provisions shall be subject to immediate tow by a licensed tow truck operator at the request of the landowner or a duly appointed agent of the landowner, at the request of any person unable to lawfully gain access to or move their vehicle, at the request of any person

unable to lawfully gain access to the area blocked by the unlawfully parked vehicle, or at the request of appropriate law enforcement personnel. The owner of any vehicle unlawfully parked in violation of these provisions shall pay any and all reasonable and necessary costs associated with towing and storage of the vehicle.

**§ 3-1407. Parking on Certain Property Prohibited**

A. No person shall place, stop, park, or stand any vehicle including trailers or implements of husbandry, contrary to any official sign reserving, restricting, or regulating the placing, stopping, standing, or parking of a vehicle at any building or property, including grounds appurtenant thereto, of the Muscogee (Creek) Nation.

B. Muscogee (Creek) Nation Lighthouse or any law enforcement agency which has entered into a valid cross-commission agreement with the Muscogee (Creek) Nation shall be responsible for the enforcement of subsection A of this section.

C. Any person violating the provisions of § 3-1407(A) shall be guilty of a misdemeanor and shall be punished by a fine of not more than One Hundred Dollars (\$100.00). A violation shall be indicated by the placing of a notice of such violation on the windshield of the vehicle improperly placed, stopped, parked or standing.

**SUBCHAPTER 15. MISCELLANEOUS RULES**

**§ 3-1501. Unattended Motor Vehicle**

The person driving or in charge of a motor vehicle shall not permit it to stand unattended without first stopping the engine, and effectively setting the brake thereon and, when standing upon any grade, turning the front wheels to the curb or side of the highway.

**§ 3-1502. Limitations on Backing**

No vehicle shall be backed upon any street or highway except for such distance as may be necessary to permit the vehicle to enter the proper driving lane from a parked position. Such backing shall be done only after the driver of said vehicle has ascertained that such movement can be made without endangering other traffic.

**§ 3-1503. Obstruction to Driver's View or Control**

A. No person shall drive a vehicle when it is so loaded, or when there are in the front seat such a number of persons, exceeding three, as to obstruct the view of the driver to the front or sides of the vehicle or as to interfere with the driver's control over the driving mechanism of the vehicle.

B. No passenger in a vehicle shall ride in such position as to interfere with the driver's view ahead or to the sides or to interfere with his control over the driving mechanism of the vehicle.

**§ 3-1504. Opening and Closing Vehicle Doors**

No person shall open the door of a motor vehicle on the side available to moving traffic unless and until it is reasonably safe to do so, nor shall any person leave a door open on the side of a vehicle available to moving traffic for a period of time longer than necessary to load or unload passengers.

**§ 3-1505. Following Fire Apparatus and other Emergency Vehicles Prohibited**

A. The driver of any vehicle other than one on official business shall not follow any fire apparatus traveling in response to a fire alarm closer than five hundred (500) feet or drive into or park such vehicle within the block where fire apparatus has stopped in answer to a fire alarm.

B. The driver of any vehicle other than one on official business shall not follow any emergency vehicle or shall not purposely drive to any location on a highway where an emergency exists which would interfere with the free movement of authorized emergency vehicles or any other traffic using the highway at that location. For the purpose of this section the definition of emergency shall include traffic accidents, airplane accidents, disasters, explosions, civil disturbances, and (without limitations by the foregoing) any other related circumstances which tend to cause traffic congestion.

C. The purpose of this section is to eliminate sightseers and other persons who do not have official business at the scene of an emergency, and whose presence would tend to cause traffic congestion.

**§ 3-1506. Putting Glass, etc., on Highway Prohibited**

A. No person shall throw or deposit upon any highway any glass bottle, glass, nails, tacks, wire, cans or any other substances likely to injure any person, animal or vehicle upon such highway.

B. Any person who drops, or permits to be dropped or thrown, upon any highway any destructive or injurious material shall immediately remove the same or cause it to be removed.

C. Any person removing a wrecked or damaged vehicle from a highway, highway right of way or any other location as the result of an accident shall remove any glass or other injurious substance dropped upon the highway or highway right of way or other location from such vehicle. The owner or insurer of the owner of the vehicle if the owner's insurance policy provides coverage for such expense, shall be responsible for



the cost of removal of the vehicle and the glass or other injurious substance and any vehicle storage fees.

D. No person shall throw any substance at a standing vehicle or any occupant thereof, nor shall any person throw any substance at a person on or adjacent to a highway.

**§ 3-1507. Throwing or Dropping Object on or at Moving Vehicles**

A. No person shall willfully throw or drop any substance at a moving vehicle or any occupant thereof.

B. No person shall willfully throw or drop any object from a bridge or overpass with intent to damage any property or injure any person.

C. Any violation of § 3-1507 (A) or (B) shall be deemed a felony and upon conviction, shall be punishable by imprisonment for a term or not more than one (1) year, or by a fine not exceeding Five Thousand Dollars (\$5,000.00), or by both such fine and imprisonment.

**§ 3-1508. Child Passenger Restraint System Required for Certain Vehicles—Exemptions**

A. Every driver when transporting a child under six (6) years of age in a motor vehicle operated on the roadways, streets, or highways of the Muscogee (Creek) Nation, shall provide for the protection of said child by properly using a child passenger restraint system.

B. Children at least six (6) years of age but younger than thirteen (13) years of age shall be protected by use of a child passenger restraint system or a seat belt.

C. The provisions of this section shall not apply to:

1. The driver of a school bus, taxicab, moped, motorcycle, or other motor vehicle not required to be equipped with safety belts pursuant to federal laws;
2. The driver of an ambulance or emergency vehicle;
3. The driver of a vehicle in which all of the seat belts are in use;
4. The transportation of children who for medical reasons are unable to be placed in such devices; or
5. The transportation of a child who weighs more than forty (40) pounds and who is being transported in the back seat of a vehicle while wearing only a lap safety belt when the back seat of the vehicle is not equipped with combination lap and shoulder safety belts, or when the combination lap and shoulder safety belts in the back seat are being used by other

children who weigh more than forty (40) pounds. Provided, however, for purposes of this paragraph, back seat shall include all seats located behind the front seat of a vehicle operated by a licensed child care facility or church. Provided further, there shall be a rebuttable presumption that a child has met the weight requirements of this paragraph if at the request of any law enforcement office, the licensed child care facility or church provides the officer with a written statement verified by a parent or legal guardian that the child weighs more than forty (40) pounds.

D. A law enforcement officer is hereby authorized to stop a vehicle if it appears that the driver of the vehicle has violated the provisions of this section and to give an oral warning to said driver. The warning shall advise the driver of the possible danger to children resulting from the failure to install or use a child passenger restraint system or seat belts in the motor vehicle.

E. A violation of the provisions of this section shall be admissible as evidence in any civil action or proceeding for damages unless the plaintiff in such action or proceeding is a child under sixteen (16) years of age.

F. Any person convicted of violating § 3-1508 (A) or (B) shall be punished by a fine of Fifty Dollars (\$50.00) and shall pay all court costs thereof. This fine shall be suspended and the court costs limited to a maximum of Fifteen Dollars (\$15.00) in the case of the first offense upon proof of purchase or acquisition by loan of a child passenger restraint system.

G. For purposes of this section, "child passenger restraint system" means an infant or child passenger system which meets the federal standards as set by 49 C.F.R., Section 571.213.

### **§ 3-1509. Allowing Passenger to Ride Outside Passenger Compartment**

A. No operator of a motor vehicle shall allow a passenger to ride outside the passenger compartment of the vehicle on the streets, highways or turnpikes of the Muscogee (Creek) Nation; provided, this section shall not apply to persons so riding on private property or for parades or special events nor shall this section apply to passengers riding on the bed of a pickup truck.

B. Any person convicted of violating the provisions of § 3-1509 (A) shall be punished by a fine of Ten Dollars (\$10.00) and shall pay court costs of Fifteen Dollars (\$15.00).

### **§ 3-1510. Definitions—Unattended Child or Vulnerable Adult in Motor Vehicle Prohibited—Exception—Penalty**

A. As used in this section:

1. "Person responsible for a child" means a custodial parent or legal guardian of a child, or a person who has been directed or authorized to supervise a child by that child's custodial parent or legal guardian;
2. "Unattended" means beyond a person's direct ability to care for or come to the aid of the unaccompanied person; and
3. "Motor vehicle" means any vehicle which is self-propelled. As used in this chapter, the term "motor vehicle" shall not include: implements of husbandry; electric personal assistive mobility devices; motorized wheelchairs; or vehicles moving solely by human or animal power.

B. A person responsible for a child who is six (6) years of age or younger, or a caretaker of a vulnerable adult, shall not leave that child or vulnerable adult unattended in a motor vehicle if the conditions, including, but not limited to, extreme weather, inadequate ventilation, or hazardous ventilation, or hazardous or malfunctioning components within the vehicle present a risk to the health or safety of the unattended child or vulnerable adult.

C. It shall not be considered a violation of this section if the child or vulnerable adult is accompanied in the motor vehicle by a person at least twelve (12) years of age who is not mentally incompetent.

D. Any person convicted of violating the provisions of this section shall be guilty of a misdemeanor and shall be punished by:

1. A fine of not less than Fifty Dollars (\$50.00) upon a first conviction;
2. A fine of not less than One Hundred Dollars (\$100.00) and ordered to perform community service of not less than fifty (50) hours upon a second conviction; and
3. A fine of not less than Two Hundred Dollars (\$200.00) upon a third or subsequent conviction, and the full record of that person's convictions of the violations of this section shall be submitted to the Children and Family Services Department for evaluation.

E. Nothing in this section precludes prosecution under any other provision of law.

## **SUBCHAPTER 16. OPERATION OF BICYCLES AND PLAY VEHICLES**

### **§ 3-1601. Traffic Laws Apply to Persons Riding Bicycles or Motorized Scooters**

Every person riding a bicycle or motorized scooter upon a roadway shall be granted all of the rights and shall be subject to all of the duties applicable to the driver of a vehicle by

this chapter, except as to special regulations in this subchapter and except to those provisions of this chapter which by their nature can have no application.

**§ 3-1602. Riding on Bicycle or Motorized Scooter**

A. A person operating a bicycle shall ride upon or astride a permanent and regular attached seat.

B. No bicycle or motorized scooter shall be used to carry more persons at one time than the number for which it is designed and equipped.

**§ 3-1603. Clinging to Vehicles**

No person riding upon any bicycle, or motorized scooter, coaster, roller skates, sled or toy vehicle shall attach the same or himself or herself to any vehicle upon a roadway.

**§ 3-1604. Riding on Roadway, One-way Street**

A. Every person operating a bicycle or motorized scooter upon a roadway at less than the normal speed of traffic at the time and place and under the conditions then existing shall ride as close as is safe to the right-hand curb or edge of the roadway, except under any of the following situations:

1. When overtaking and passing another vehicle proceeding in the same direction;
2. When preparing for a left turn at an intersection or into a private driveway;
3. When reasonably necessary to avoid conditions and while exercising due care, including but not limited to:
  - a. fixed or moving objects;
  - b. parked or moving vehicles;
  - c. pedestrians or animals;
  - d. surface hazards; or
  - e. any time it is unsafe to continue along the right-hand curb or edge of the roadway; and
4. When riding in the right-turn-only lane.

B. Any person riding a bicycle or motorized scooter upon a one-way street or highway with two or more marked lanes of travel may ride as close as is safe to the left-hand curb or edge of the street or highway.

C. No person operating a bicycle or motorized scooter shall pass other vehicles between lanes of traffic traveling in the same direction.

D. Persons riding bicycles or motorized scooters upon a roadway shall not ride more than two abreast except on paths or parts of roadways set aside for the exclusive use of bicycles or motorized scooters. Persons riding two abreast shall not impede the normal and reasonable flow of traffic and, on a laned roadway, shall ride within a single lane.

**§ 3-1605. Overtaking and Passing Bicycle—Violations—Fines and Penalties**

A. When overtaking and passing a bicycle proceeding in the same direction, a person driving a motor vehicle shall exercise due care by leaving a safe distance between the motor vehicle and the bicycle of not less than three (3) feet until the motor vehicle is safely past the overtaken bicycle.

B. If a person violates the provisions of subsection A of this section and the violation results in a collision causing serious physical injury to another person, the person shall be subject to a fine of not more than Five Hundred Dollars (\$500.00).

**SUBCHAPTER 17. MAINTENANCE, CONSTRUCTION AND SAFETY ZONES**

**§ 3-1701. Driving through Safety Zones Prohibited**

No vehicle shall at any time be driven through or within a safety zone.

**§ 3-1702. Maintenance and Construction Zones**

A. The Muscogee (Creek) Nation is hereby authorized to close any highway or section thereof to traffic while the highway is flooded or under repair, maintenance or construction and, in exercising the authority, shall erect or cause to be erected traffic control devices and barricades to warn and notify the public that the highway has been closed to traffic.

B. When any highway has been closed to traffic under the provisions of subsection A of this section and traffic control devices or barricades have been erected, it shall be unlawful for any person to drive any vehicle through, under, over, or around the traffic control devices or barricades, or otherwise to enter the closed area. The provisions of this section shall not apply to persons while engaged in the construction, maintenance and repair of the highway or to persons entering therein for the protection of lives or property; provided, that persons having their places of residence or places of business within the closed area may travel, when possible to do so, through the area at their own risk.

C. Whenever construction, repair and maintenance of any highway is being performed under traffic, the appropriate authorities shall erect, or cause to be erected, traffic control devices to warn and guide the public. Each person using the highway shall

obey all signs, signals, markings, flagmen or other traffic control devices which are placed to regulate, control, and guide traffic through the construction or maintenance area. As used in this section, "construction or maintenance area" means any area upon or around any highway that is visibly marked as an area where construction, repair, and maintenance is temporarily occurring. The construction or maintenance area also includes the lanes of highway leading up to the area upon which an activity described in this section is being performed, beginning at the point where properly posted traffic control devices start to warn and guide the public into and through the construction or maintenance including, but not limited to, instructions to merge from one lane into another lane, to reduce speed, or to follow directions of flagmen.

D. No person shall remove, change, modify, deface or alter any traffic control device or barricade which has been erected on any highway under the provisions of this section.

E. Any person who violates any provision of this section shall be guilty of a misdemeanor and upon conviction thereof shall be subject to a fine of not less than One Hundred Dollars (\$100.00) nor more than One Thousand Dollars (\$1,000.00) or imprisonment not to exceed thirty (30) days, or both such fine and imprisonment, and shall be liable for any damage to property, or injury to or death to persons caused by the violations. In addition, the court may order restitution in an amount equal to the actual cost of the emergency response and repair or replacement of any damaged or lost emergency equipment.

### **§ 3-1703. Endangerment of a Highway Worker**

A. A person shall be guilty of the offense of endangerment of a highway worker if the person commits any of the following when the act occurs within a maintenance or construction zone:

1. Exceeding the posted speed limit by fifteen (15) miles per hour or more;
2. Failing to merge as required by posted highway signs or devices;
3. Failing to stop for a work-zone flagman or failing to obey traffic control devices that have been erected for purposes of warning or guiding the public into and through the construction or maintenance area;
4. Driving through or around a construction or maintenance area by any lane not clearly designated to motorists for the flow of traffic through or around the construction or maintenance area; or
5. Intentionally striking, moving or altering barrels, signs, or other devices erected to control the flow of traffic to protect highway workers and motorists in the construction or maintenance area for a reason other than avoidance of an obstacle, an emergency, or to protect the health and safety of an occupant of the motor vehicle or of another person.

B. Upon conviction for committing the offense of endangerment of a highway worker pursuant to subsection A of this section, if no injury or death of a highway worker resulted from the offense, in addition to any other penalty authorized by law, the person shall be subject to a fine of not more than One Thousand Dollars (\$1,000.00).

C. A person shall be deemed to commit the offense of aggravated endangerment of a highway worker upon conviction for any offense pursuant to subsection A of this section when such offense occurs in a construction or maintenance area and results in the injury or death of a highway worker, in addition to any other penalty authorized by law, the person shall be subject to a fine of not more than Five Thousand Dollars (\$5,000.00) if the offense resulted in injury to or death of a highway worker.

D. Except for the offense provided for in paragraph 5 of subsection A of this section, no person shall be deemed to commit the offense of endangerment of a highway worker unless the act or omission constituting the offense occurred when one or more highway workers were in the construction or maintenance area.

E. No person shall be cited or convicted for endangerment of a highway worker or aggravated endangerment of a highway worker, for any act or omission otherwise constituting an offense under subsection A of this section, if such act or omission resulted, in whole or in part, from mechanical failure of the vehicle of the person or from the negligence of another person or a highway worker.

## **SUBCHAPTER 6. EQUIPMENT OF VEHICLES AND SCOPE AND EFFECT OF REGULATIONS**

### **§ 3-1801. Driving or Permitting to be Driven Vehicle with Unsafe of Missing Equipment—Other Forbidden Acts—Exceptions Relating to Requirements for Equipment—Rules—Definitions**

A. It shall be a misdemeanor, upon conviction, punishable as provided in § 3-2501 of this chapter, for any person:

1. To drive or move, or for the owner to cause or permit to be driven or moved on any highway, any vehicle or combination of vehicles which:
  - a. is known to be in such unsafe condition as to endanger any person;
  - b. is known not to contain those parts required by this chapter;
  - c. is not at all times equipped with such lamps and other equipment in proper conditions and adjustment as required in this chapter; or
  - d. is known to be equipped in any manner in violation of this chapter;
2. To do any act forbidden under this chapter; or
3. To fail to perform any act required under this chapter.



B. Nothing contained in this chapter shall be construed to prohibit on any vehicle:

1. Equipment required by the United States Department of Transportation pursuant to 49 C.F.R., Chapter V; or
2. The use of additional parts and accessories which are not inconsistent with provisions of this chapter.

C. The provisions of subchapter 6., et seq. of this chapter with respect to equipment on vehicles shall not apply to implements of husbandry, road machinery, road rollers, farm tractors, motorcycles as defined in § 3-2201(C) of this chapter, or vehicles designed to be moved solely by animal or human power, except as specifically made applicable in this chapter.

D. Any specific requirement of this chapter with respect to equipment on any vehicle, other than a bicycle, shall not apply if the vehicle was lawfully designed and manufactured without such equipment; provided, the provisions of this chapter shall apply to any homemade vehicle or any vehicle constructed from a kit or from plans.

E. Low-speed and medium speed electrical vehicles which are in compliance with the equipment requirements in 49 C.F.R., Section 571.500 shall be deemed to be in compliance with the provisions of this chapter.

F. The provisions of this chapter shall not apply to vehicles lawfully registered as antique or classic vehicles.

G. Any person producing proof within forty-eight (48) hours that a condition or equipment for which the person was cited as defective, missing, prohibited, improper, unauthorized or otherwise in violation of this chapter has been remedied by the person shall be entitled to dismissal of such charge without assessment of court costs.

H. As used in this chapter:

1. "Lamp" means an electrical device producing artificial illumination by use of one or more lights, each light of which performs the same function or separate functions as required by this chapter;
2. "Lightweight vehicle" means a motor vehicle that has a manufacturer's gross vehicle weight rating of ten thousand (10,000) pounds or less, other than:
  - a. a vehicle that is being used to transport passengers for hire; or
  - b. a vehicle that is being used to transport hazardous materials of a type or quantity that requires the vehicle to be marked or placarded under 49 C.F.R., Section 177.823;

3. "Nighttime" or "night" means any time from one-half (1/2) hour after sunset to one-half (1/2) hour before sunrise; and
4. "Passenger car" means a motor vehicle designed for carrying ten persons, including the driver, or less except a low-speed or medium-speed electrical vehicle or motorcycle, as defined in ~~of~~ this chapter.

**§ 3-1802. Sale of Improperly Equipped Vehicle—Improper Equipping or Operation of Improperly Equipped Vehicle**

A. Unless previously disclosed through written documentation, no person shall knowingly have for sale, sell, or offer for sale any vehicle to be operated on the highways of the Muscogee (Creek) Nation unless it is equipped as required by this subchapter.

B. No person shall knowingly equip or operate on the highways of the Muscogee (Creek) Nation any vehicle with equipment unless it complies with the requirements of this chapter.

**§ 3-1803. Construction of Act—Severability**

This act shall be liberally construed so as to effectuate the purposes stated herein. The provisions of this chapter shall be severable and if any phrase, clause, sentence or provision of the subchapter is declared to be invalid, or to be preempted by federal law or regulation, the validity of the remainder of this chapter shall not be affected thereby, and the remaining provisions shall be in full force and effect.

**SUBCHAPTER 19. LAMPS AND OTHER LIGHTING EQUIPMENT**

**§ 3-1901. Proper Display of Lamps and Other Signal Devices—Adoption of Federal Specifications and Standards**

A. The United States Department of Transportation specifications and standards for headlamps, auxiliary driving lamps, tail lamps, signal lamps, reflectors, and other lighting equipment and signal devices, pursuant to 49 C.F.R., Section 571.108, are hereby adopted by the Muscogee (Creek) Nation.

B. Except as otherwise provided in this chapter and subject to exceptions for parked vehicles, every vehicle upon a highway within the Muscogee (Creek) Nation shall properly display all lamps and illuminating devices as required by law:

1. At any time from one-half (1/2) hour after sunset to one-half (1/2) hour before sunrise, also referred to in this chapter as nighttime; and
2. At any other time when, due to insufficient light or unfavorable atmospheric conditions, persons and vehicles on the highways are not clearly discernible at a distance of one thousand (1,000) feet or less.

C. All lamps required by this chapter shall display a steady light except as otherwise prescribed by this chapter. Any required individual lamp may be combined or incorporated with any other required individual lamp if the combined or incorporated lamps meet all of the individual lighting requirements of this chapter for each individual lamp contained therein.

D. No lamp, other than a headlamp, displayed on any vehicle shall project a glaring light; provided, every headlamp shall comply with this chapter.

### **§ 3-1902. Visibility Distance and Mounted Height of Lamps**

A. Any requirement of this subchapter as to distance from which certain lamps and devices shall render objects visible, or within which such lamps or device shall be visible, shall apply during the times stated in § 3-1901 (B) of this chapter in respect to a vehicle without load when upon a straight, level, unlighted highway, under normal atmospheric conditions unless a different time or condition is expressly stated.

B. Any requirement of this chapter as to the mounted height of lamps or devices shall mean from the center of such lamp or device to the level ground upon which the vehicle stands when such vehicle is without a load.

### **§ 3-1903. Head Lamps on Motor Vehicles**

A. Every motor vehicle shall be equipped with at least two headlamps emitting a white light at least one lamp on each side of the front of the motor vehicle on the same level and as far apart as practicable. The headlamps shall comply with the requirements and limitations set forth in this subchapter.

B. Every headlamp upon every motor vehicle shall be located at a height of not more than fifty-four (54) inches nor less than twenty-two inches to be measured as set forth in subsection § 3-1902 (B) of this chapter.

C. The headlamps on motor vehicles shall be so arranged that the driver may select at will between distributions of light projected to different elevations and such lamps may, in addition, be so arranged that such selection can be made automatically, subject to the following limitations:

1. There shall be an uppermost distribution of light, or composite beam, so aimed and of such intensity as to reveal persons and vehicles at a distance of at least six hundred (600) feet ahead from all conditions of loading;
2. There shall be a lowermost distribution of light, or composite beam, so aimed and of sufficient intensity to reveal persons and vehicles at a distance of at least two hundred (200) feet ahead; and

3. On a straight, level road under any condition of loading none of the high-intensity portion of the beam shall be directed to strike the eyes of an approaching driver.

D. Every motor vehicle which has multiple-beam road-lighting equipment shall be equipped with a beam indicator, which shall be lighted whenever the uppermost distribution of light from the headlamps is in use, and shall not otherwise be lighted.

#### **§ 3-1904. Number of Driving Lamps Required or Permitted**

A. At all times specified in subsection § 3-1901 (B) of this chapter, at least two lighted headlamps shall be displayed, one on each side at the front of every motor vehicle, except when such vehicle is parked subject to the regulations governing lights on parked vehicles, as provided in § 3-1916 of this chapter.

B. Whenever a motor vehicle equipped with headlamps as herein required is also equipped with any auxiliary driving lamps or a spot lamp or any other lamp on the front thereof projecting a beam of intensity greater than three hundred (300) candlepower, not more than a total of four of any such lamps on the front of a vehicle shall be lighted at any one time when upon a highway.

C. The driver of any vehicle shall comply with the provisions of § 3-1917 of this chapter regarding the use of alternate headlamp equipment.

#### **§ 3-1905. Use of Distribution of Light or Composite Beam Lighting Equipment**

A. Whenever a motor vehicle is being operated on a roadway, or shoulder adjacent thereto, during the times specified in § 3-1901 (B) of this chapter, the driver shall use a distribution of light, or composite beam, directed high enough and of sufficient intensity to reveal persons and vehicles at a safe distance in advance of the vehicle, subject to the following requirements and limitations:

B. Whenever a driver of a vehicle approaches an oncoming vehicle within one thousand (1,000) feet, such driver shall use a distribution of light, or composite beam, so aimed that the glaring rays are not projected into the eyes of the oncoming driver. The lowermost distribution of light, or composite beam, specified § 3-1903 (C) 2. of this chapter shall be deemed to avoid glare at all times, regardless of road contour and loading.

C. Whenever the driver of a vehicle follows another vehicle within six hundred (600) feet to the rear, such driver shall use a distribution of light permissible under this chapter other than the uppermost distribution of light specified in § 3-1903 (C) 1. chapter.

#### **§ 3-1906. Headlamps with Single Distribution of Light—Farm Tractors and Certain Other Motor Vehicles**

A. Headlamps arranged to provide a single distribution of light shall be permitted on farm tractors and motor vehicles manufactured and sold prior to September 1, 1962, in lieu of multiple-beam road-lighting equipment herein specified if the single distribution of light complies with the following requirements and limitations:

1. The headlamps shall be so aimed that when the vehicle is not loaded none of the high-intensity portion of the light shall at a distance of twenty-five (25) feet ahead project higher than a level of five (5) inches below the level of the center of the lamp from which it comes, and in no case higher than forty-two (42) inches above the level on which the vehicle stands at a distance of seventy-five (75) feet ahead.
2. The intensity shall be sufficient to reveal persons and vehicles at a distance of at least three hundred (300) feet.

**§ 3-1907. Lighting Equipment upon Motor Vehicles Operated below certain Speed**

Any motor vehicle operated at a speed of twenty (20) miles per hour or less may be operated under the conditions specified in § 3-1901 (B) of this chapter when equipped with two lighted lamps upon the front thereof capable of revealing persons and objects one hundred (100) feet ahead in lieu of lamps required in § 3-1903 or § 3-1903.3 of this chapter.

**§ 3-1908. Tail Lamps**

A. Every motor vehicle, trailer, semitrailer and pole trailer, and any vehicle which is being drawn at the end of a combination of vehicles, shall be equipped with at least two tail lamps mounted on the rear, on the same level and as widely spaced laterally as practicable to the rear; provided that, in the case of a combination of vehicles, only the tail lamp on the rearmost vehicle need actually be seen from the distance specified.

B. Every tail lamp upon every vehicle shall be located at a height of not more than seventy-two (72) inches nor less than fifteen (15) inches.

C. Any tail lamps shall be lighted whenever the clearance lamps and:

1. Headlamps;
2. Combination of headlamps and auxiliary driving lamps, as defined in Section 3-1917 of this chapter; or
3. Fog lamps, as defined in § 3-1917 of this chapter, are lighted.

**§ 3-1909. Lamps Illuminating Rear License Plate**

A. No more than two separate lamps with a white light shall be so constructed and placed as to illuminate the rear license plate and render it clearly legible from a distance of fifty (5) feet to the rear.

B. Any separate lamp or lamps for illuminating the rear license plate shall be lighted whenever the clearance lamps and:

1. Headlamps;
2. Combination of headlamps and auxiliary driving lamps, as defined in § 3-1917 of this chapter; or
3. Fog lamps, as defined in § 3-1917 of this chapter, are lighted.

C. The operation of a vehicle upon which the license plate is surrounded or framed, partially or in whole, by any additional lamp or lamps or otherwise lighted by any additional lamp or lamps, shall be a violation of this section. In addition, display and visibility of the rear license plate shall be in compliance with the requirements set forth in this chapter.

#### **§ 3-1910. Reflectors**

A. Every motor vehicle, trailer, semitrailer, and a pole trailer shall carry on the rear, either as a part of the tail lamps or separately, at least two red reflectors meeting the requirements of this section; provided, that vehicles described in § 3-1913 of this chapter shall be equipped with reflectors as required in §§ 3-1913 and 3-1914 of this chapter.

B. Every such reflector shall be mounted on the vehicle at a height not less than fifteen (15) inches nor more than seventy-two (72) inches measured as set forth in § 3-1904 (B) of this chapter, and shall be of such size and characteristics and so mounted as to be visible at night from all distances within six hundred (600) feet to one hundred (100) feet required in § 3-1914 of this chapter.

#### **§ 3-1911. Stop Lamps**

A. Every vehicle shall be equipped with at least two stop lamps which shall meet the requirements of this section.

B. The stop lamps required by this section:

1. Shall be mounted on the rear of the vehicle at the same level, as far apart as practicable, and at a height of not more than seventy-two (72) inches nor less than fifteen (15) inches;
2. Shall display a red or amber light, or any shade of color between red and amber, visible from a distance of not less than five hundred (500) feet to the rear in normal sunlight; and
3. Shall be actuated upon application of the brakes.

C. If so equipped in its original design and manufacture, every motor vehicle shall be additionally equipped with a center high-mounted stop lamp located on the vertical center line above the level of the stop lamps described in this section which shall display a red light, visible from a distance of not less than five hundred (500) feet to the rear in normal sunlight, and which shall be actuated upon application of the brakes.

### **§ 3-1912. Turn Signal Lamps**

A. Every vehicle shall be equipped with turn signal lamps that flash for the purpose of indicating the intention to turn either to the left or to the right.

B. The flashing turn signal lamps required by this section:

1. Shall show to the front and rear of the vehicle;
2. On the front of the vehicle, shall be located on the same level, as widely spaced laterally as practicable, at a height of not more than seventy-two (72) inches nor less than fifteen (15) inches, and when in use shall display a white or amber light, or any shade of color between white and amber, visible from a distance of not less than five hundred (500) feet to the front in normal sunlight; and
3. On the rear of the vehicle, shall be located at the same level and as widely spaced laterally as practicable, at a height of not more than seventy-two (72) inches nor less than fifteen (15) inches, and when in use shall display a red or amber light, or any shade of color between red and amber, visible from a distance of not less than five hundred (500) feet to the rear in normal sunlight.

C. A truck-tractor need not be equipped with turn signal lamps mounted on the rear if the turn signals at the front are so constructed and so located that they meet the requirements for double-faced turn signals that meet the standards of the Society of Automotive Engineers (SAE).

### **§ 3-1913. Vehicles of certain Width—Clearance Lamps—Side Marker Lamps—Reflectors**

A. In addition to other equipment required in this chapter, every vehicle, except truck tractors and pole trailers, which is eighty (80) inches or more in overall width shall be equipped:

1. On the front, with two amber clearance lamps, one at each side located at the same level and as widely spaced laterally and as near the top as practicable;
2. On the rear, with two red clearance lamps, one at each side located at the same level and as widely spaced laterally and as near the top as



practicable; provided, trailers or semitrailers are not required to comply with this paragraph;

3. On each side, with two side marker lamps, one at the front amber in color and one at the rear red in color. The marker lamps shall be located at the same level and as widely spaced laterally and as near the top as practicable, but not less than fifteen (15) inches above the surface of the road;
4. On each side, with one intermediate amber side marker lamp, at or near the midpoint between the front and rear side marker lamps, but not less than fifteen (15) inches above the surface of the road. Provided, any vehicle less than thirty (30) feet in overall length is not required to comply with this paragraph;
5. On each side, with two reflex reflectors, one at the front amber in color and one at the rear red in color. The reflex reflectors shall be located at the same level and as widely spaced laterally and as near the top as practicable, but not less than fifteen (15) inches above the surface of the road; and
6. On each side, with one intermediate amber side reflex reflector, at or near the midpoint between the front and rear side reflex reflectors, but not less than fifteen (15) inches nor more than (60) inches above the surface of the road. Provided, any vehicle less than thirty (30) feet in overall length is not required to comply with this paragraph.

B. In addition to other equipment required in this chapter, every truck-tractor shall be equipped on the front, with two amber clearance lamps, one at each side located at the same level and as widely spaced laterally and as near the top as practicable.

C. In addition to other equipment required in this chapter, every pole trailer shall be equipped:

1. On each side, with one red or amber side marker lamp and one amber clearance lamp, which may be in combination, to show to the front, side and rear; and
2. On the rear of the pole trailer or load, with two red reflex reflectors, one at each side located at the same level and as widely spaced laterally and as near the top as practicable, but not less than fifteen (15) inches above the surface of the road; provided, any load overhang of four (4) feet or more shall be lighted in compliance with § 3-1915 of this chapter.

D. Any required red reflector on the rear of a vehicle may be incorporated with the tail lamp, but such reflector shall meet all the other reflector requirements of this chapter.

E. In addition to other equipment required in this chapter, any motor vehicle eighty (80) inches or more in overall width shall be equipped with:

1. Three identification lamps showing to the front which shall emit an amber light; and
2. Three identification lamps showing to the rear which shall emit a red light; and
3. Such lamps shall be placed horizontally in a row between the clearance lamps on the vertical center line of the vehicle.

**§ 3-1914. Visibility of Reflectors, Clearance Lamps and Marker Lamps**

A. Every reflector upon any vehicle referred to in § 3-1913 of this chapter shall be of such size and characteristics and so maintained as to be readily visible at nighttime from all distances within six hundred (600) feet to one hundred (100) feet from the vehicle when directly in front of lawful lower beams of headlamps.

B. Front and rear clearance lamps shall be visible at nighttime from a distance of one thousand (1,000) feet from the front and rear, respectively, of the vehicle.

C. Side marker lamps shall be visible at nighttime from a distance of one thousand (1,000) feet from the sides of the vehicles on which mounted.

**§ 3-1915. Lamps, Reflectors, and Flags on Projecting Load**

A. Whenever the load upon any vehicle extends to the rear four (4) feet or more beyond the bed or body of such vehicle, there shall be displayed at the extreme rear end of the load, at the time specified in § 3-1901 (B) of this chapter.

1. Two red lights and two red reflectors positioned to indicated maximum width; and
2. One red light facing to each side positioned to indicate maximum overhang.

B. At any other time on any such vehicle, there shall be displayed at the extreme rear end of such load red flags not less than twelve (12) inches square marking the extremities of such load at each point where a lamp would otherwise be required by this section.

**§ 3-1916. Lamps on Parked or Stopped Motor Vehicles**

A. Whenever a motor vehicle or combination of vehicles is parked or stopped, whether attended or unattended, upon a roadway or shoulder adjacent thereto, and there is not sufficient light to reveal the parked or stopped vehicle to the operator of another vehicle within a distance of one thousand (1,000) feet upon such roadway or shoulder, such vehicle so parked or stopped shall display the following:

1. At least two lamps displaying a white or amber light visible from a distance of one thousand (1,000) feet to the front of the vehicles; and
2. At least two lamps displaying a red light visible at a distance of one thousand (1,000) feet to the rear of the vehicle; and

B. Subsection A of this section shall not apply to:

1. A vehicle parked or stopped on a street or highway with designated on-street parking or with a speed limit of twenty-five (25) miles per hour or less:
  - a. when the vehicle is positioned as close as practicable to the outer edge of the roadway or of the shoulder, if present; or
  - b. unless the street or highway is posted as a no-parking area.
2. A vehicle which has lost the ability to display lamps and the vehicle is parked or stopped off the roadway;
3. A vehicle which is disabled, unattended, and parked or stopped off the roadway; or
4. An authorized emergency vehicle of a law enforcement agency, when such vehicle is parked or stopped on the shoulder.

C. Any lighted headlamps upon a parked or stopped vehicle shall be lower beams.

### **§ 3-1917. Auxiliary, Fog, and Off-road Lamps**

A. As used in this section:

1. "Auxiliary driving lamp" means a lamp mounted to provide illumination to the front of a motor vehicle;
2. "Daytime running lamp" means a lamp mounted to provide illumination to the front of a motor vehicle that will assist to identify its presence to other vehicles and pedestrians at times other than those specified in § 3-1901 (B) of this chapter;
3. "Front fog lamp" means a lamp mounted to provide illumination to the front of a motor vehicle during conditions of rain, snow, fog, dust, or other atmospheric disturbances;
4. "Rear fog lamp" means a lamp mounted to provide illumination to the rear of a motor vehicle during conditions of rain, snow, fog, dust, or other atmospheric disturbances;
5. "Off-road lamp" means any lamp designed and manufactured solely for off-road use; and

6. "Spot lamp" means a movable lamp which emits a brilliant light with a focused beam for examining objects, street address numbers, and other things alongside the road.

B. Any motor vehicle may be equipped with not to exceed two spot lamps which shall not be used in substitution of headlamps.

C. The operator of any motor vehicle:

1. Which has in use a spot lamp shall, upon the approach of another vehicle from any direction within one thousand (1,000) feet, immediately turn said spot lamp off;
2. Shall not use or turn on a spot lamp when approaching or following another motor vehicle within one thousand (1,000) feet; and
3. Shall not use or turn on a spot lamp to cause a vehicle to yield right of way or stop.

D. A motor vehicle may be equipped with not to exceed two front fog lamps or two rear fog lamps which shall only be used when visibility, as described in paragraphs 3 and 4 of subsection A of this section, is limited to one-half (1/2) mile or less.

E. Front fog lamps shall be mounted on the same level on opposite sides of the front of the vehicle at or below the level of the headlamps. Front fog lamps may be used with lower beam headlamps or switch controlled in conjunction with the headlamps and may be used, at the discretion of the driver, with either low or high beam headlamps. Front fog lamps shall not be used in substitution of headlamps, when headlamps are required.

F. A motor vehicle may be equipped with not to exceed two auxiliary driving lamps mounted at a height of more than forty-two (42) inches from the ground. The auxiliary driving lamps may be used with lower beam headlamps or switch controlled in conjunction with the headlamps and may be used, at the discretion of the driver, with either low or high beam headlamps.

G. Every fog lamp or auxiliary driving lamp used upon a motor vehicle shall be so adjusted and aimed that no part of the high intensity portion of the beam shall, at a distance of twenty-five (25) feet, rise above the horizontal plane passing through the center of the lamp.

H. Notwithstanding any other provision of law, a vehicle may be equipped with off-road lamps for use as headlamps while the vehicle is operated or driven off of a highway. The lamps shall be:

1. Mounted at a height of not less than forty-two (42) inches from the ground;

2. Wired independently of all other lighting; and
3. Turned off whenever the vehicle is operated or driven upon a highway.

I. A motor vehicle may be equipped with not to exceed two daytime running lamps which conform to 49 C.F.R., Section 571.108, Section 5.5.11.

J. Daytime running lamps shall not be used in substitution of headlamps.

K. Daytime running lamps shall be mounted on the front of a motor vehicle and shall be wired to be:

1. Automatically activated when the vehicle is started; and
2. Automatically deactivated when the headlamp control is in any "on" position.

L. The provisions of this section shall not apply to operators of authorized emergency vehicles.

### **§ 3-1918. Emergency Vehicles—Flashing Lights**

A. Every authorized emergency vehicle shall in addition to any other equipment and distinctive markings required by this chapter, be equipped with flashing red or blue lights or a combination of flashing red and blue lights. The lights shall be visible at five hundred (500) feet in normal sunlight.

B. A law enforcement vehicle when used as an authorized emergency vehicle may but need not be equipped with alternately-flashing red or blue lights specified herein. An unmarked vehicle used as a law enforcement vehicle for routine traffic enforcement shall be equipped with the following combination of lights:

1. Three flashing red, blue, or a combination of red and blue lights emitting the flashing lights to the front of the vehicle;
2. Two flashing white lights emitting the flashing white lights to the front of the vehicle;
3. Flashing red, blue, white or any combination of red, blue or white lights placed at and emitting the flashing lights from the four corners of the vehicle so that they are visible for three hundred sixty (360) degrees; and
4. One flashing red, blue, amber, or any other combination of red, blue or white lights placed at and emitting the flashing light to the rear of the vehicle.

C. The use of the signal equipment described herein shall impose upon drivers of other vehicles the obligation to yield right of way and stop for authorized emergency vehicles, as prescribed in § 3-805 of this chapter.

**§ 3-1919. Flashing Lights on Licensed Wreckers**

A. Flashing red or blue lights or a combination of flashing red and blue lights may be used on licensed wreckers or wrecker support vehicles at the scene of an emergency.

B. Any licensed wrecker or wrecker support vehicle may be equipped with a lamp displaying an amber light, visible from a distance of not less than five hundred (500) feet to the rear of the vehicle. Such lamp shall only be used when leaving the scene of a tow service call and for the purpose of warning the operators of other vehicles to exercise care in approaching, overtaking or passing such vehicle.

**§ 3-1920. Back-up and Vehicular Hazard Warning Lamps**

A. Any motor vehicle shall be equipped with not more than two back-up lamps, either separately or in combination with other lamps. Any back-up lamp shall not be lighted when the motor vehicle is in forward motion.

B. Every vehicle shall be equipped with vehicular hazard warning lamps required for that vehicle at the time the vehicle was manufactured by standards of the United States Department of Transportation pursuant to 49 C.F.R., Section 571.108. Such lamps shall be used for the purpose of warning the operators of other vehicles of the presence of a vehicular traffic hazard requiring the exercise of unusual care in approaching, overtaking or passing, and when so equipped may display such warning in addition to any other warning signals required by this chapter. The lamps used to display such warning to the front shall be mounted at the same level and as widely spaced laterally as practicable, and shall display simultaneously flashing white or amber lights, or any shade of color between white and amber. The lamps used to display such warning to the rear shall be mounted at the same level and as widely spaced laterally as practicable, and shall show simultaneously flashing amber or red lights, or any shade of color between amber and red. These warning lights shall be visible from a distance of not less than five hundred (500) feet in normal sunlight.

C. Any vehicle may be equipped with one or more side marker lamps and any such lamp may be flashed in conjunction with the turn or vehicular hazard warning lamps.

**§ 3-1921. Special Restriction on Lamps**

A. Any lighted lamp or illuminating device upon a motor vehicle, other than headlamps, spot lamps, auxiliary driving lamps, flashing turn signals, vehicular hazard warning lamps, authorized emergency vehicle lamps, snow removal and construction and maintenance vehicle warning lamps, and school bus and church bus warning lamps, which projects a beam of light of an intensity greater than three hundred (300) candlepower shall be so directed that no part of the high intensity portion of the beam will

strike the level of the roadway on which the vehicle stands at a distance of more than seventy-five (75) feet from the vehicle.

B. Except as provided in § 3-1918 and 3-1919 of this chapter, no person shall drive or move any vehicle or equipment upon any highway with any lamp or device thereon displaying or capable of displaying a red or blue light visible from directly in from of the center thereof.

C. Flashing lights are prohibited except on:

1. An authorized emergency vehicle, as provided in § 3-1918 of this chapter.
2. A school bus or a church bus, as provided in this chapter.
3. Any snow-removal, construction, or maintenance equipment;
4. A wrecker or tow vehicle while at the scene of an emergency or loading or unloading a vehicle in close proximity to traffic as needed for safety precautions or as a means of indicating the presence of a vehicular traffic hazard requiring unusual care in approaching, overtaking or passing.
5. Any vehicle as a means of indicating a right or left turn, as provided in this chapter;
6. Any vehicle as means of indicating the presence of a vehicular traffic hazard requiring unusual care in approaching, overtaking or passing, as provided in this chapter;
7. Any vehicle displaying side marker lamps which flash in conjunction with turn signal lamps or vehicle hazard warning lamps, as provided in this chapter;
8. A farm tractor or an implement of husbandry, as provided in this chapter; or
9. Any vehicle used while performing official duties as a rural or contract route mail carrier of the United States Postal Service.

D. Blue lights are prohibited except as allowed in § 3-1918 and 3-1919 of this chapter.

E. Any person violating the provisions of subsection B, C, or D of this section shall, upon conviction, be guilty of a misdemeanor punishable by imprisonment not exceeding six (6) months, or by a fine not exceeding One Thousand Dollars (\$1,000), or by both such fine and imprisonment.

## **SUBCHAPTER 20. BRAKES**

### **§ 3-2001. Brake Equipment Required**

A. Every motor vehicle manufactured prior to September 1, 1961, when operated upon a highway shall be equipped with brakes adequate to control the movement of and to stop and hold such vehicle, including two separate means of applying the brakes, each of which means shall be effective to apply the brakes to at least two wheels. If these two separate means of applying the brakes are connected in any way they shall be so constructed that failure of any one part of the operating mechanism shall not leave the motor vehicle without brakes on at least two wheels.

B. Every motor vehicle manufactured on or after September 1, 1961, operated upon the highways shall be equipped with service brakes upon all wheels.

C. A truck or truck-tractor having three or more axles need not be equipped with brakes on the front axle if:

1. the vehicle was manufactured on or before July 24, 1980, or
2. the vehicle was manufactured on or after July 25, 1980, but no later than October 26, 1986, and the brake components have not been removed. If brake components have been removed, the vehicle shall be retrofitted to meet the requirements of this section.

D. Every trailer, semitrailer, and pole trailer of a gross vehicle weight rating of three thousand (3,000) pounds or more when operated upon a highway shall be equipped with brakes:

1. adequate to control the movement of and to stop and to hold such vehicle.
2. so designated as to be applied by the driver of the towing vehicle from its cab. Provided, braking systems commonly known as "surge brakes" shall be lawful when used on a trailer which is towing or transporting a vessel or vessels; and
3. so designed and connected that in case of an accidental breakaway of the towed vehicle the brakes shall be automatically applied.

E. Every trailer, semitrailer, and pole trailer required to be equipped with brakes, except motor vehicles engaged in drive-away tow-away operations as provided in 49 C.F.R., Part 393.42, shall be equipped with brakes which are designed to be applied automatically and promptly upon break-away from the towing vehicle, and means shall be provided to maintain application of the brakes on the trailer in such a case for at least fifteen (15) minutes.

F. Any trailer, semitrailer, or pole trailer having a gross vehicle weight rating of less than three thousand (3,000) pounds need not be equipped with brakes; provided, the trailer, semitrailer, or pole trailer shall be equipped with brakes if the weight of the towed vehicle exceeds forty percent (40%) of the gross vehicle weight rating of the towing vehicle.



G. Every motor vehicle and every combination of vehicles shall be equipped with a parking brake system adequate to hold the vehicle or combination on any grade on which it is operated under all conditions of loading, on a surface free from snow, ice, or loose material.

H. The braking system on the rear axle of any motor vehicle may be used for both service brake and parking brake operation.

I. Air brake systems installed on towed vehicles manufactured shall be designed as provided in 49 C.F.R., Section 393.43.

J. Every truck or truck-tractor, if used to tow a trailer equipped with brakes, shall be equipped with service brakes as provided in 49 C.F.R., Section 393.43.

K. Every truck or truck tractor equipped with air brakes, when used to tow another vehicle equipped with full air brakes, in operations other than drive-away or tow-away, shall, in addition to the above, be equipped with two means of activating the emergency features of the trailer brakes as provided in 49 C.F.R., Section 393.43.

L. Every motor vehicle which is equipped with power brakes, shall comply with 49 C.F.R., Section 393.49.

M. Every truck tractor and truck used for towing other vehicles equipped with vacuum brakes, in operations other than drive-away tow-away, on and after September 1, 1961, shall, in addition to other requirements of tribal and federal law, comply with 49 C.F.R., Section 393.43.

N. Every bus, truck, and truck-tractor which is equipped with an air or vacuum brake system, shall be equipped with a reservoir as required by 49 C.F.R., Section 393.50, sufficient to insure a brake application capable of stopping the vehicle within a safe stopping distance in the event the engine stops.

O. Every bus, truck and truck-tractor shall be equipped with service brake warning devices and signals as required by 49 C.F.R., Part 393.51.

P. All brakes shall be maintained in good working order and shall be so adjusted as to operate as equally as practicable with respect to the wheels on opposite sides of the vehicle. The brakes shall be capable of stopping the vehicle, or a combination of vehicles, within a safe stopping distance.

## **SUBCHAPTER 21. OTHER EQUIPMENT**

### **§ 3-2101. Horns and Warning Devices**

A. Every motor vehicle when operated upon a highway shall be equipped with a horn in good working order and capable of emitting sound audible under normal conditions from a distance of not less than two hundred (200) feet, but no horn or other warning device shall emit an unreasonable loud or harsh sound. The driver of a motor vehicle shall, when reasonably necessary to ensure safe operation, give audible warning with a horn.

B. No vehicle shall be equipped with nor shall any person use upon a vehicle any siren, except as otherwise permitted in subsection D of this section.

C. Any vehicle may be equipped with a theft alarm signal device which is so arranged that it cannot be used by the driver as an ordinary signal. A theft alarm signal device shall not use a siren, as described in subsection D of this section.

D. Every authorized emergency vehicle shall, in addition to any other equipment and distinctive markings required by this chapter, be equipped with a siren, or similar device, capable of emitting sound audible under normal conditions from a distance of not less than five hundred (500) feet, but such siren shall not be used except when such vehicle is operated in response to an emergency call or in the immediate pursuit of an actual or suspected violator of the law, in which said latter events the driver of such vehicle shall sound said siren when reasonable necessary to warn pedestrians and other drivers of the approach thereof.

E. It shall be unlawful for any person to use a device capable of producing auditory warning signals similar to that on an authorized emergency vehicle or to use audible signal equipment from a motor vehicle for the purpose of causing any other motor vehicle operator to yield right of way and stop, or which actually causes any other motor vehicle operator to yield the right of way and stop, whether intended or not. The provisions of this subsection shall not apply to the operators of authorized emergency vehicles.

### **§ 3-2102. Mufflers or Other Noise-Suppressing Systems—Prevention of Excessive or Unusual Noise**

A. Every vehicle shall be equipped, maintained, and operated so as to prevent excessive or unusual noise. Every motor vehicle shall at all times be equipped with a muffler or other effective noise-suppressing system in good working order and in constant operation, and no person shall use a muffler cut-out, bypass or similar device. No person shall operate a motor vehicle with an exhaust system that has been in any manner which will amplify or increase the noise or sound emitted louder than that emitted by the muffler originally installed on the vehicle when manufactured.

B. The engine and power mechanism of every motor vehicle shall be so equipped and adjusted as to prevent the escape of excessive fumes or smoke or both.

### **§ 3-2103. Mirrors**

A. Every motor vehicle shall be equipped with a mirror mounted on the left side of the vehicle and so positioned and located as to reflect to the driver a view of the highway to the rear of the motor vehicle.

B. Every motor vehicle shall be equipped with an additional mirror mounted either inside the vehicle approximately in the center or outside the vehicle on the right side and so positioned and located as to reflect to the driver a view of the highway to the rear of the vehicle.

**§ 3-2104. Windshields and Windows—Obstruction, Obscuring, or Impairing of Driver's View—Electric Windshield Wiper Mechanism**

A. As used in this section:

1. "Critical area" means the area by the normal sweep of the windshield wiper blade on the driver's side. The area covered by the wiper blade cannot be reduced from manufacturer's original specifications;
2. "Noncritical areas" means all other areas;
3. "Outright breakage" means glass which is severely cracked or shattered to the extent that air passes through it or, if by running a fingertip over the cracked area, the glass moves or sharp edges can be felt;
4. "Star break or shot damage" means a vented break with cracks radiating from the point of impact; and
5. "Stress or hairline crack" means a crack which has no visible point of impact.

B. No person shall operate any motor vehicle which:

1. Is not equipped with a windshield;
2. Has any outright breakage in the windshield or in the window on either side of the driver;
3. Has any star break or shot damage, three (3) inches or more in diameter, located in the critical area; or
4. Has two or more stress or hairline cracks, twelve (12) inches or more in combined length, located in the critical area.

C. No person shall drive any motor vehicle with any sign, poster, or other nontransparent material, or debris, including but not limited to snow, ice, or frost, upon the front windshield or the side wings, or side or rear windows or suspend any sign, poster, object, or other material from the interior of the vehicle which materially obstructs, obscures, or impairs the driver's clear view of the highway ahead or to either side or of any intersecting highway.

D. The windshield on every motor vehicle shall be equipped with an electric windshield wiper mechanism for cleaning rain, snow, or other moisture from the windshield.

E. Every windshield wiper blade and windshield wiper mechanism upon a motor vehicle shall be maintained in good working order. When replacing the wiper blade, the length of the blade shall not be reduced from the manufacturer's specification.

**§ 3-2105. Tires and Wheels—Peripheral Equipment—Unsafe Operating Condition**

A. Every solid rubber tire on a vehicle shall have rubber on its entire traction surface at least one inch thick above the edge of the flange of the entire periphery.

B. A person shall not operate or move on any hard-surfaced highway any vehicle having any metal tire in contact with the roadway, except when authorized by special permit as provided in subsection E of this section.

C. Any tire on a vehicle moved on a highway shall not have on its periphery any block, stud, flange, cleat or spike or any other protuberance of any material other than rubber which projects beyond the tread of the traction surface of the tire, except that it shall be permissible:

1. to use farm tractors or implements of husbandry with tires having protuberances which will not injure the highway;
2. to use tire chains of reasonable proportions upon any vehicle when required for safety because of snow, ice, or other conditions tending to cause a vehicle to skid; or
3. for pneumatic tires equipped with or having on their periphery studs of metal, porcelain or other material, if constructed to provide resiliency upon contact with the road surface, so that not more than three percent (3%) in the aggregate of the traction surface of such tire be composed of such studs and so that such studs do not project more than three thirty-seconds (3/32) of an inch beyond the tread of the traction surface of such tire and have a rate of wear which will so limit such projection.

D. Operator selectable "on demand" studded tires having traction-enhancing studs located outside the normal tread which allows their operation as conventional tires on dry roads or as studded tires on ice-coated roads by the expedient of reducing or increasing the air pressure within the tires, shall be exempt from the prohibitions of subsection C of this section with the following exceptions:

1. The use of such tires shall be limited to vehicles with rated capacities up to and including two (2) tons;

2. Any such tire shall not be deflated so that the studs lower and make contact with the road surface earlier than November 1 of each year or later than April 1 of the following year.

E. A person shall not operate any vehicle when one or more of the tires in use on that vehicle is in unsafe operating condition or has a tread depth less than two-thirty-seconds (2/32) inch measured in any two adjacent tread grooves at three equally spaced intervals around the circumference of the tire; provided, such measurements shall not be made at the location of any tread wear indicator, tie bar, hump, or fillet. As used in this subsection, an unsafe tire includes, but is not limited to, any tire:

1. On which the ply or cord is exposed in the tread area;
2. Which has been re-grooved or recut below the original groove depth, except tires that have been designed with under-rubber sufficient for re-grooving and are so marked;
3. Marked "Farm Implement Only", "Not for Highway Use", or any other marking that would indicate that the tire is not for normal highway use; provided, no such marking shall be altered or removed;
4. On which any bulges, bumps, or knots show in the tread or sidewall area; or
5. On the front steering axle of a truck-tractor which has tread depth measuring less than four-thirty-seconds (4/32) inch;
6. Every wheel on a vehicle shall not be cracked and shall be securely fastened to the hub of the vehicle with all lug nuts properly affixed.

**§ 3-2106. Television-type Receiving Equipment Visible from Operator's Seat Prohibited**

A. No motor vehicle shall be operated on the highways of the Muscogee (Creek) Nation in which there is installed any television-type receiving equipment, the viewer, monitor, or screen of which can be seen by any person sitting in the seat from which such motor vehicle is operated.

B. This section shall not be construed to prohibit the use of television-type receiving equipment used exclusively for navigation, safety of vehicle operation, or law enforcement purposes.

**§ 3-2107. Seat Belts or Shoulder Harnesses**

It shall be unlawful for any person to sell or offer for sale at retail or trade or transfer from or to Muscogee (Creek) citizens or any Indian person within the Muscogee (Creek) Nation Reservation, any passenger vehicle which is manufactured or assembled commencing with the 1966 models, unless such vehicle is equipped with safety belts or safety shoulder harness combinations which are installed for the use of persons in the left front and right front seats thereof.

**§ 3-2108. Specifications**

All safety belts or safety shoulder harnesses shall be of a type and shall be installed pursuant to 49 C.F.R. Section 571.208 et seq.

**§ 3-2109. Penalties**

Any person violating any of the provisions of § 3-2107 of this chapter shall, upon conviction thereof, be punished as provided in § 3-2501 of this chapter.

**§ 3-2110. Short Title**

§§ 3-2110 through 3-2112 of this chapter shall be known and may be cited as the "Muscogee (Creek) Nation Mandatory Seat Belt Use Act."

**§ 3-2111. Operators and Front Seat Passengers Required to Wear Safety Belts—Exemptions**

A. Every operator and front seat passenger of a passenger car operated in the Muscogee (Creek) Nation shall wear a properly adjusted and fastened seat belt system, required to be installed in the motor vehicle when manufactured pursuant to 49 C.F.R., Section 571.208.

B. For the purposes of this section "passenger car" shall mean "vehicle" as used in this chapter. "Passenger car" shall include the passenger compartment of pickups, vans, minivans, and sport utility vehicles. "Passenger car" shall not include trucks, truck-tractors, recreational vehicles, motorcycles, or motorized bicycles. "Passenger car" shall not include a vehicle used primarily for farm use.

C. A person who, for medical reasons, is unable to wear a safety seat belt system supported by written attestation of such fact from a physician licensed by any state is not required to wear a seat belt. Additionally, any person may be exempt from the requirement of wearing a seat belt if a restriction or some similar provision on the person's current and valid driver license issued by any state exempts such person from wearing a seat belt. The issuance of an attestation by a physician or the exemption by any state authorities, in good faith, shall not give rise to, nor shall the physician or the Muscogee (Creek) Nation thereby incur, any liability whatsoever in damages or otherwise, to any person injured by reason of failure of the person to wear a safety seat belt system.

D. This section shall not apply to an operator of a motor vehicle while performing official duties as a route carrier of the U.S. Postal Service.

E. Fine and court costs for violating the provisions of this section shall not exceed Twenty Dollars (\$20.00).

**§ 3-2112. Civil Proceedings—Effect of Act**

§§ 3-2110 through 3-2112 of this chapter may be used in any civil proceeding in the Muscogee (Creek) Nation and the use or non-use of seat belts shall be submitted into evidence in any civil suit in the Muscogee (Creek) Nation courts unless the plaintiff in such suit is a child under sixteen (16) years of age.

**§ 3-2113. Restrictions on Use of Glass Coating Materials or Sun Screening Devices on Windshields and Windows**

A. As used in this section:

1. "Glass coating material" or "sun screening devices" means materials, films, applications or devices which are used in conjunction with approved vehicle glazing materials for the purpose of reducing the effects of sun, but shall not include materials, films, applications, or devices with a mirrored or mirror-like finish.
2. "Light transmission" means the percentage of total light is allowed to pass through a window;
3. "Luminous reflectance" means the ratio of the amount of total light, expressed in percentages. Which is reflected outward by the glass coating material or sun screening device to the amount of total light falling on the glass coating material;
4. "Manufacturer" means:
  - a. a person who engages in the manufacturing or assembling of sun screening devices; or
  - b. a person who fabricates, laminates, or tempers glazing materials, incorporating the capacity to reflect or to reduce the transmittance of light during the manufacturing process; and
5. "Window" means the windshield, side or rear glass of a motor vehicle, including any glazing material, glass coating or sun screening device.

B. It is unlawful, except as provided by this section, for a person to sell, install, or to operate a motor vehicle with any object or material:

1. Placed, displayed, installed, affixed, or applied upon the windshield or side or rear windows; or
2. So placed, displayed, installed, affixed, or applied in or upon the motor vehicle so as to obstruct or reduce a driver's clear view through the windshield or side rear windows.

C. It is unlawful for any person to place, install, affix, or apply any transparent material upon the windshield or side or rear windows of any motor vehicle if such material alters the color or reduces the light transmittance of such windshield or side or rear windows except as provided in this section.

D. This section shall not apply to:

1. Side or back windows that have a substance or material in conjunction with glazing material that has a light transmission of at least twenty-five percent (25%) and a luminous reflectance of at most twenty-five percent (25%);
2. Front side wing vents and windows that have a substance or material not attached in conjunction with glazing material which is used by a vehicle operator on a moving vehicle during daylight hours;
3. Rearview mirrors;
4. Adjustable nontransparent sun visors which are mounted forward of the side windows and are not attached to the glass;
5. Signs, stickers, or other materials which are displayed in a forty-nine-square-inch area in the lower corner of the windshield farthest removed from the driver or signs, stickers, or other materials which are displayed in a forty-nine-square-inch area in the lower corner of the windshield nearest the driver;
6. Direction, designation, or termination signs on buses, if signs do not interfere with the driver's clear view of approaching traffic;
7. Rear window wiper motors;
8. Rear window defrosters or defoggers;
9. Rear truck lid handle or hinges;
10. Side windows to the rear of the driver or back windows that have a substance or material in conjunction with glazing material that has a light transmission of at least ten percent (10%) and a luminous reflectance of at most twenty-five percent (25%) on all vehicles manufactured prior to 1996 year models, if the motor vehicle is equipped with outside mirrors on both left and right hand lanes sides of the vehicle that are so located as to reflect to the driver a view of the highway through each mirror for a distance of at least two hundred (200) feet to the rear of the motor vehicle;
11. Transparent material which is installed, affixed, or applied to the topmost portion of the windshield if:
  - a. it does not extend downward beyond the AS-1 line or more than five (5) inches from the top of the windshield, whichever is closer to the top of the windshield; and
  - b. the material is not red or amber in color;



12. All windows to the rear of the driver's seat in a vehicle licensed as a bus, or a taxicab;
13. Implements of husbandry as defined by this chapter; and
14. Law enforcement vehicles.

E. This section shall not prohibit the use and placement of federal, state, or political subdivision certificates on any window as are required by applicable laws.

F. Louvered materials, when installed as designed, shall not reduce the area of the driver's visibility below fifty percent (50%) as measured on a horizontal plane. When such materials are used in conjunction with the rear window, the measurement shall be made based upon the driver's view from inside the rearview mirror.

G. A person who sells or installs any product regulated by this section shall certify in a written statement, which shall be a part of the contract for sale or installation and shall be in bold-face type, that:

1. The product sold or installed is in compliance with the reflectivity and transmittance requirements of this section;
2. The installation of the product to the driver's or passenger's side window may be illegal in some states.

H. A person required for medical reasons to be shielded from the direct rays of the sun, supported by written attestation of such fact from a physician licensed by any state, is exempt from the provisions of this section for a motor vehicle belonging to such person or in which such person is a habitual passenger. Any person may operate a vehicle or alter the color or reduce the light transmitted through the side or rear windows of a vehicle in accordance with a written attestation of such fact from a physician licensed by any state. Additionally, any person may be exempt from the requirements of this section if a restriction or some similar provision on the person's current and valid driver license issued by any state exempts such person from a like provision of the state law where the driver license was issued.

I. Any person who violates any provision of this section, upon conviction, shall be guilty of a misdemeanor and shall be punished as provided for in § 3-2501 of this chapter.

#### **§ 3-2114. Emission Control System—Disconnection, Alteration, Modification, or Replacement**

A. On any motor vehicle originally designed and equipped with an emission control system shall be maintained in good working order.

B. No person shall:

1. Disconnect any part of such system except temporarily in order to make repairs, replacements, or adjustments;
2. Modify or alter such system or its operation in any manner; or
3. Operate, and no owner shall cause or permit to be operated, any motor vehicle originally equipped with such system while any part of that system is known by the owner to be disconnected or while that system or its operation is modified or altered in any manner.

C. The provisions of this section shall not apply to any disconnection, alteration, modification, or replacement of a nature intended to increase effectiveness of the system in controlling the emission of air pollutants.

**§ 3-2115. Absent, Disconnected, or Broken Parts of Suspension System**

No vehicle shall be operated if any shock absorber, spring, or strut of the suspension system is absent, disconnected, or broken.

**§ 3-2116. Properly Operating Speedometer**

Every motor vehicle shall be equipped with a properly operating speedometer capable of registering at least the maximum legal speed limit for that vehicle.

**SUBCHAPTER 22. MOTORCYCLES**

**§ 3-2201. Headlamps and Other Illuminating Devices on Certain Motorcycles—Definition**

A. Every motorcycle of the model year 1978 or later operating upon a road or highway within the Muscogee (Creek) Nation shall display at all times:

1. A lighted headlamp or headlamps; and
2. Any other illuminating devices, if manufactured to be displayed at all times. This section shall not apply to motorcycles used in official law enforcement activities.

B. The provisions of § 3-1901 (A), (C) and (D) of this chapter shall apply to motorcycles; provided however, a motorcycle may be equipped with a motorcycle headlamp modulation system as authorized by 49 C.F.R., Section 571.108, Section 7.9.4.

C. As used in this section, “motorcycle” shall include, unless otherwise specifically indicated, motorcycles and motor-driven cycles as those terms are defined in this chapter and commonly understood.

**§ 3-2202. Headlamps Required on Every Motorcycle—Definitions**

A. Every motorcycle shall be equipped with at least one headlamp emitting a white light which shall comply with the applicable requirements and limitations of § 3-1903 of this chapter and of §§ 3-1907 and 3-1915 of this chapter.

B. Every headlamp upon every motorcycle shall be located at a height of not more than fifty-four (54) inches not less than twenty-two (22) inches to be measured as set forth in § 3-1902 (B) of this chapter.

C. For purposes of this section:

1. "Headlamp" shall not include passing lamp; and
2. "Passing lamp" shall mean an auxiliary front low-beam lamp which emits a white light.

### **§ 3-2203. Tail Lamps**

A. Every motorcycle shall be equipped with at least one tail lamp mounted on the rear on the vertical center line of the motorcycle which shall emit a red light plainly visible from a distance of one thousand (1,000) feet to the rear, provided that in the case of a combination of vehicles only the tail lamp on the rearmost vehicle need actually be seen from the distance specified herein.

B. Every tail lamp shall be located at a height of not more than sixty (60) inches nor less than fifteen (15) inches.

C. Either a tail lamp or a separate lamp with a white light shall be so constructed and placed as to illuminate the rear license plate and render it clearly legible from a distance of fifty (50) feet to the rear. Any tail lamp, together with any separate lamp for illuminating the rear license plate, shall be lighted whenever the headlamp or driving lamp is lighted. The operation of a motorcycle upon which the license plate is surrounded or framed, partially or in whole, by any additional lamp or lamps or otherwise lighted by any additional lamp or lamps, shall be a violation of this section.

### **§ 3-2204. Reflectors**

A. Every motorcycle shall be equipped with and display at least one reflector meeting the requirements of this section.

B. Every such reflector shall be mounted on the motorcycle at a height not less than fifteen (15) inches nor more than sixty (60) inches measured as set forth in § 3-1902 (B) of this chapter, and shall be of such size and characteristics and so mounted as to be visible at night from all distances within six hundred (600) feet to one hundred (100) feet from the motorcycle when directly in front of lawful lower beams of headlamps.

### **§ 3-2205. Stop Lamps**

A. Every motorcycle shall be equipped with at least one stop lamp meeting the requirements of this section.

B. The stop lamp required by this section:

1. Shall be mounted on the rear of the motorcycle;
2. Shall display a red or amber light, or any shade of color between red and amber, visible from a distance of not less than five hundred (500) feet to the rear in normal sunlight; and
3. Shall be actuated upon application of the brakes.

### **§ 3-2206. Electric Flashing Turn Signal Lamps**

A. Every motorcycle of model year 2005 and later shall be equipped with electric flashing turn signal lamps meeting the requirements of this section.

B. The flashing turn signal lamps required by this section:

1. Shall show to the front and rear of the motorcycle;
2. Shall be located on the same level and as widely spaced laterally as practicable on the front of the motorcycle and when in use shall display a white or amber light, or any shade of color between white and amber, visible from a distance of not less than five hundred (500) feet to the rear in normal sunlight; and
3. Shall be located at the same level and as widely spaced laterally as practicable on the rear of the motorcycle and when in use shall display a red or amber light, or any shade of color between red and amber, visible from a distance of not less than five hundred (500) feet to the rear in normal sunlight; and
4. Shall indicate when actuated the intended direction by flashing the lights showing to the front and rear on the side toward which the turn is made.

### **§ 3-2207. Brakes on Motorcycles**

The brake system on any motorcycle shall comply with performance ability standards set forth in 49 C.F.R., Section 571.121, and shall be adequate to control the movement of the motorcycle and to stop and hold the motorcycle, including two separate means of applying the brakes. One means shall be effective to apply the brakes to the front wheel, and one means shall be effective to apply the brakes to the rear wheel or wheels.

### **§ 3-2208. Motorcycles—Required Equipment**

A. In addition to other requirements prescribed by this chapter or by federal law, all motorcycles, except when operated on actual trail rides conducted outside of public roads and highways, shall be equipped with:

1. Two rearview mirrors, containing a reflection surface of not less than three (3) inches in diameter, mounted one on each side of the motorcycle and positioned so as to enable the operator to clearly view the roadway to the rear of the vehicle;
2. A windshield of sufficient quality, size and thickness to protect the operator from foreign objects, except that in lieu of such windshield, the operator shall wear goggles or other protective eyewear which meets American National Standards Institute (ANSI) Standard Z87.1 and provides positive retention, or a face shield of material and design to protect the operator from foreign objects;
3. A properly operating speedometer capable of registering at least the maximum legal speed limit for that motorcycle;
4. A fender over each wheel. All fenders shall be of the type provided by the manufacturer;
5. A horn which shall comply with the requirements of § 3-2101 of this chapter; and
6. A muffler or other effective noise-suppressing system which shall comply with the requirements § 3-2102 of this chapter.

B. No person under eighteen (18) years of age shall operate or ride upon any motorcycle unless such person is properly wearing a crash helmet of a type which complies with standards established by 49 C.F.R., Section 571.218.

C. Handlebars on motorcycles shall not be higher than eye level of the operator.

## **SUBCHAPTER 23. BICYCLES**

### **§ 3-2301. Provisions in Chapter Applicable to Bicycles**

No provision in this chapter shall apply to bicycles or to equipment for use on bicycles except as to provisions in this subchapter or unless a provision has been made specifically applicable to bicyclists, bicycles or their equipment. As used in this chapter, "bicycle" shall include, unless otherwise specifically indicated, bicycles, mopeds, motorized bicycles, and electric-assisted bicycles, as those terms are defined in this chapter and as commonly understood.

### **§ 3-2302. Front Lamp**

Every bicycle in use at the times described in § 3-1901 (B) of this chapter shall be equipped with a lamp on the front emitting a white light visible from a distance of at least

one thousand (1,000) feet to the front. This section shall not apply to a street or highway with a speed limit of twenty-five miles per hour or less.

**§ 3-2303. Reflector**

Every bicycle shall be equipped with a red reflector which shall be visible for six hundred (600) feet to the rear when directly in front of lawful lower beams of headlamps on a motor vehicle.

**§ 3-2304. Reflective Material**

Every bicycle when in use at the times described in § 3-1901 (B) of this chapter shall be equipped with reflective material of sufficient size and reflectivity to be visible from both sides for six hundred (600) feet when directly in front of lawful lower beams of headlamps on a motor vehicle.

**§ 3-2305. Additional Lights and Reflectors**

A bicycle or its rider may be equipped with lights or reflectors in addition to those required by the foregoing sections; provided, such lights or reflectors shall comply with the provisions and limitations of subchapter 6 of this chapter.

**§ 3-2306. Brakes**

Every bicycle shall be equipped with a brake or brakes which will enable its driver to stop the bicycle within twenty-five (25) feet from a speed of ten (10) miles per hour on dry level, clean pavement.

**§ 3-2307. Sirens**

A bicycle shall not be equipped with, nor shall any person use upon a bicycle, any siren.

**Subchapter 24. INSPECTION OF VEHICLES**

**§ 3-2401. Vehicles without Required Equipment or in Unsafe Condition**

No person shall drive or cause to be moved on any highway any motor vehicle, trailer, semitrailer or pole trailer, or any combination of vehicles, unless the equipment upon any and every vehicle is in good working order and adjustment as required in this act and said vehicle is in such safe mechanical condition as not to endanger the driver or occupant or any person upon the highway.

**§ 3-2402. Officers may Inspect a Vehicle and its Equipment**

A. Any Muscogee (Creek) Nation Lighthouse officer or cross-commissioned law enforcement officer, may at any time upon reasonable cause to believe that a vehicle is unsafe or not equipped as required by law, or that its equipment is not in proper adjustment or repair or the operator is not properly licensed, require the driver of such vehicle to stop and submit such vehicle to an inspection and such test with reference thereto as may be appropriate.

B. In the event such vehicle or combination of vehicles is found to be in an unsafe mechanical condition or is not equipped as required by this act, the officer making the inspection may give the driver a citation or written warning. Any person producing proof within ten (10) working days from the date the citation was issued that a condition of equipment for which the person was cited as defective, missing, prohibited, improper, unauthorized or otherwise in violation of this chapter has been remedied by the person shall be entitled to dismissal of such charges without assessment of court costs.

C. No person shall operate or cause to be operated any vehicle or combination of vehicles after a citation or written warning has been issued of such unsafe condition or that the vehicle is not equipped as required by this act, except as may be necessary to return such vehicle or combination of vehicles to the residence or place of business of the owner or driver if within a distance of twenty (20) miles or to a garage, until said vehicle and its equipment has been made to conform with the requirements of this act.

D. Any vehicle or combination of vehicles found to have major mechanical defects which would be hazardous to other users of the highways if it were driven from the place of inspection as provided for in subsection C of this section shall be towed to a garage for repairs, and repair charge, tow charge or storage charge for the repair, removal and storing of the vehicle shall be the obligation of the owner or operator.

### **§ 3-2403. Owner and Drivers to Submit Vehicles for Inspection**

Whenever the driver of a vehicle is directed by a law enforcement officer to stop and submit the mechanical condition of the vehicle or its equipment to an inspection or test under the conditions stated in this act, it shall be the duty of such driver to stop and submit to such inspection or test and the failure or refusal to do so is a misdemeanor.

### **§ 3-2404. Offenses by Persons Owning or Controlling Vehicles**

It is unlawful for the owner, or any other person employing or otherwise directing the driver of any vehicle to require or knowingly to permit the operation of such vehicle upon a highway in any manner contrary to law.

### **§ 3-2405. Procedure upon Arrest for Felony**

Whenever a person is arrested for any violation of this act declared herein to be a felony, he or she shall be dealt with in like manner as upon arrest for the commission of any other felony.

**§ 3-2406. Misdemeanor Violations—Procedure**

A. Whenever a person is halted by a law enforcement officer for any violation of this chapter punishable as a misdemeanor, the officer shall proceed in accordance with applicable laws.

B. If the person charged with the violation is a minor, then the citing officer shall ascertain from the minor the name and address of his parents or legal guardian, and said officer shall cause a copy of the violation to be mailed to the address of the parents or legal guardian, within three (3) days after the date of violation.

**§ 3-2407. Authority of Officer at Scene of Accident**

A police officer at the scene of a traffic accident may issue a written notice to appear to any driver of a vehicle involved in the accident when, based upon personal investigation, the officer has reasonable and probable grounds to believe that the person has committed any offense under the provisions of this chapter in connection with the accident. In such cases the officer shall be endorsed as a witness and shall appear if said case is tried.

**§ 3-2408. Failure to Obey Notice to Appear**

A. It shall be unlawful for any person to violate his written promise to appear given to an officer upon the issuance of a notice to appear regardless of the disposition of the charge for which such notice to appear was originally issued.

B. A written promise to appear in court may be complied with by an appearance by counsel with approval of the judge before whom the case is pending.

**§ 3-2409. Arrest of Traffic Violators without Warrant**

A police officer may, without a warrant, arrest a person for any moving traffic violation of which the arresting officer or another police officer is in communication with the arresting officer has sensory or electronic perception including perception by radio, radar and reliable speed-measuring devices.

**SUBCHAPTER 25. PENALTIES**

**§ 3-2501. Misdemeanor Violations—Penalties**



A. It is a misdemeanor for any person to violate any of the provisions of this chapter unless such violation is by this chapter or other law of the Muscogee (Creek) Nation declared to be a felony.

B. Every person convicted of a misdemeanor for a violation of any of the provisions of §§ 3-401 through 3-2409 of this chapter for which another penalty is not provided shall upon conviction thereof be punished by a fine of not less than Five Dollars (\$5.00) nor more than Five Hundred Dollars (\$500.00) or by imprisonment for not more than ten (10) days; for a second such conviction within one (1) year after the first conviction by imprisonment for not more than twenty (20) days; upon a third or subsequent conviction within one (1) year after the first conviction by imprisonment for not more than six (6) months or by both such fine and imprisonment.

C. Any person violating the provisions of §§ 3-401 through 3-2409 of this chapter, where a jail sentence is not mandatory may, in the discretion of the judge before whom the case is pending, be permitted to enter a plea of guilty by written statement by the person charged to be presented to the court wherein the case is filed. A remittance covering the fine and costs may be considered and received with the same force and effect as a written plea of guilty.

D. Unless another penalty is in this title or by the laws of the Muscogee (Creek) Nation provided, every person convicted of a misdemeanor for the violation of any other provision of this chapter shall be punished by a fine of not less than Five Dollars (\$5.00) nor more than Five Hundred Dollars (\$500.00), or by imprisonment for not more than six (6) months, or by both such fine and imprisonment.

E. Provided however, notwithstanding any provision of law to the contrary, any offense, including traffic offenses, in violation of any of the provisions of this chapter which is not otherwise punishable by a term of imprisonment or confinement shall be punishable by a term of imprisonment not to exceed one day in the discretion of the court, in addition to any fine prescribed by law.

F. The conviction of any person, as prescribed in this section, when the offense occurred during a period when the driving privileges of the person were under suspension, revocation, cancellation, denial, or disqualification or the person had not been granted driving privileges by any state, shall result in the doubling of the appropriate fine, as provided for in subsection B and C of this section, and the doubling of all court costs and all fees collected by the court, unless waived by the court.

### **§ 3-2502. Felonies**

A. Any person who is convicted of a violation of any of the provisions of the Muscogee (Creek) Nation Traffic Code or by other laws of the Muscogee (Creek) Nation to constitute a felony shall be guilty of a felony and shall be punished by imprisonment for not less than one (1) year nor more than three (3) years, or by fine of not less than

Five Hundred Dollars (\$500.00) nor more than Five Thousand (\$5,000.00), or by both such fine and imprisonment.

B. The conviction of any person, as prescribed in this section, when the offense occurred during a period when the driving privileges of the person were under suspension, revocation, cancellation, denial, or disqualification or the person had not been granted driving privileges by any state, shall result in the doubling of the appropriate fine, as provided for in subsection A of this section, and the doubling of the appropriate fine, as provided for in subsection A of this section, and the doubling of all court costs and all fees collected by the court, unless waived by the court.

## **SUBCHAPTER 26. RECORDS AND REPORTS OF CONVICTIONS**

### **§ 3-2601. Record of Traffic Cases**

A. Every judge of a court shall keep or cause to be kept a record of every traffic complaint, traffic citation, or other legal form of traffic charge deposited with or presented to the court, and shall keep a record of every official action by the court, including, but not limited to, a record of every conviction, forfeiture of bail, judgment of acquittal, and the amount of fine or forfeiture resulting from every traffic complaint, citation or other legal form of traffic charge deposited with or presented to the court.

B. The court record of every traffic complaint, traffic citation, or other legal form of traffic charge shall include:

1. The name, address, sex and date of birth of the person charged;
2. The traffic citation number;
3. The driver license number, if any, of the person charged and the state or jurisdiction from which the license is issued;
4. The license plate number, make, and model of the vehicle involved; and
5. The nature and date of the offense, the date of hearing, the plea, the judgment, or, if bail was forfeited, the amount of the fine or forfeiture.

## **SUBCHAPTER 27. CHEMICAL TESTS**

### **§ 3-2701. Implied Consent to Breath Test, Blood Test or Other Test for Determining Presence or Concentration of Alcohol or Other Intoxicating Substance**

A. Any person who operates a motor vehicle upon the roads, highways, streets, turnpikes or other public place or upon any private road, street, alley or lane which provides access to one or more single or multi-family dwellings within the Muscogee (Creek) Nation shall be deemed to have given consent to a test or tests of such person's blood or breath, for the purpose of determining the alcohol concentration as defined in § 3-2705 of this chapter, and such person's blood, saliva or urine for determining the presence or concentration of any other intoxicating substance. Therein as defined in this

section, if arrested for any offense arising out of acts alleged to have been committed while the person was operating or in actual physical control of a motor vehicle upon the public roads, highways, streets, turnpikes or other public place or upon any private road, street, alley or lane which provides access to one or more single or multi-family dwellings while under the influence of alcohol or other intoxicating substance, or the combined influence of alcohol and any other intoxicating substance, or if the person is involved in a traffic accident that resulted in the immediate death or serious injury of any person and is removed from the scene of the accident to a hospital or other health care facility outside the Muscogee (Creek) Nation before a law enforcement officer can effect an arrest.

B. A law enforcement officer, having reasonable grounds to believe that such person was operating or in actual physical control of a motor vehicle while under the influence may direct the administration of or administer the test or tests.

C. As used in this chapter, the term "other intoxicating substance" shall mean any controlled dangerous substance and any other substance, other than alcohol, which is capable of being ingested, inhaled, injected or absorbed into the human body and is capable of adversely affecting the central nervous system, vision, hearing or other sensory motor functions.

D. The law enforcement agency may designate whether blood or breath is to be tested for the alcohol concentration thereof, and whether blood, saliva or urine is to be tested for the presence or concentration of any other intoxicating substance therein.

E. In the event the law enforcement agency does not designate the test to be administered, breath shall be the substance tested for alcohol concentration. Blood may also be tested to determine the alcohol concentration thereof in the event that breath cannot be tested to determine the alcohol concentration thereof because of the lack of an approved device or qualified person to administer a breath test or because such breath test for any other reason cannot be administered in accordance with the applicable standards and accepted practices for administering such tests.

F. In the event the law enforcement agency does not designate the test to be administered, blood, saliva or urine shall be the substance tested for the presence or concentration of any other intoxicating substance or the combination of alcohol and any other intoxicating substance.

G. In the event the person is incapable of submitting to and successfully completing, by reason of illness or injury or other physical disability, the test to be administered, an alternate test may be administered consistent with Muscogee (Creek) Nation law.

H. Any person who is unconscious or otherwise incapable of refusing to submit to a test of such person's blood, saliva or urine to determine the presence or concentration of any other intoxicating substance therein, shall be deemed not to have withdrawn the

consent provided by subsection A of this section, and such test may be administered as provided herein.

I. An unconscious person who has been issued a citation by a law enforcement officer for one of the offenses listed in subsection A of this section is arrested for purposes of this section. The arresting officer must leave a copy of the citation with the arrested person which may be accomplished by handing it to the arrested person, or by leaving it with the personal effects of the arrested party, so as to inform the unconscious person of the arrest.

J. Any person who has been arrested for one of the offenses listed in subsection A of this section who is unconscious or injured and who requires immediate medical treatment as determined by a treating physician may be released on the person's own recognizance for medical reasons by the arresting officer. The arresting officer who releases an arrested person on the person's own recognizance must indicate the release on the face of the citation. Any person released on his or her own recognizance for medical reasons shall remain at liberty pending the filing of charges.

K. In addition to any test designated by the arresting officer, the arrested person may also designate any additional test to be administered to determine the concentration of alcohol, or the presence or concentration of any other intoxicating substance or the combination of alcohol and any other intoxicating substance. The cost of such additional test shall be at the expense of the arrested person.

L. A sufficient quantity of any specimen obtained at the designation of the arrested person shall be available to the law enforcement agency employing the arresting officer. Such specimens shall be tested in accordance with the rules applicable to the specimens obtained by an arresting officer.

M. When a law enforcement officer has determined that the blood alcohol content of an individual is to be tested for the presence or concentration of alcohol, other intoxicating substance, or the combination of alcohol and any other intoxicating substance, the law enforcement officer shall inform the individual to be tested that the withdrawal of blood shall only be performed by certain medical personnel as provided in § 3-2702 of this chapter.

**§ 3-2702. Administration of Tests—Authorization—Liability—Laboratories—Independent Analysis—Costs**

A. Only a person licensed by any state or jurisdiction as a medical doctor, osteopathic physician, chiropractic physician, registered nurse, licensed practical nurse, emergency medical technician, physician's assistant, or an employee of a hospital or other health care facility authorized by the hospital or health care facility to withdraw blood, or other qualified person authorized by law acting at the request of a law enforcement officer may withdraw blood for the purpose of having a determination made

of its concentration of alcohol or the presence or concentration of other intoxicating substance. Only qualified, authorized persons may collect breath, saliva or urine, or administer tests or breath under the provisions of this chapter.

B. If the person authorized to withdraw blood as specified in subsection A of this section is presented with a written statement:

1. Authorizing blood withdrawal signed by the person whose blood is to be withdrawn;
2. Signed by a duly authorized peace officer that the person whose blood is to be withdrawn has agreed to the withdrawal of blood;
3. Signed by a duly authorized peace officer that the person whose blood is to be withdrawn has been placed under arrest and that the officer has probable cause to believe that the person, while intoxicated, has operated a motor vehicle in such manner as to have caused the death or serious physical injury of another person, or the person has been involved in a traffic accident and has been removed from the scene of the accident that resulted in the death or great bodily injury of any person, to a hospital or other health care facility outside the Muscogee (Creek) Nation before the law enforcement officer was able to effect an arrest for such offense; or
4. In the form of an order from the district court that blood be withdrawn, the person authorized to withdraw the blood and the hospital or other health care facility where the withdrawal occurs may rely on such a statement or order as evidence that the person has consented to or has been required to submit to the clinical procedure and shall not require the person to sign any additional consent or waiver form. In such a case, the person authorized to perform the procedure, the employer of such person, and the hospital or other health care facility shall not be liable in any action alleging lack of consent or lack of informed consent.

C. No person specified in subsection A of this section, no employer of such person, and no hospital or other health care facility where blood is withdrawn shall incur any civil or criminal liability as a result of the proper withdrawal of blood when acting at the request of a law enforcement officer by the provisions of § 3-2701 or § 3-2703 of this chapter, or when acting in reliance upon a signed statement or court order as provided in this section, if the act is performed in a reasonable manner according to generally accepted clinical practice. No person specified in subsection A of this section shall incur any civil or criminal liability as a result of the proper collection of breath, saliva or urine when acting at the request of a law enforcement officer under the provisions of § 3-2701 or § 3-2703 of this chapter or when acting pursuant to a court order.

D. The blood, breath, saliva or urine specimens obtained shall be tested by the appropriate test as determined by clinically approved standards and practices of the healthcare professional listed in subsection A of this section to determine the alcohol

concentration thereof, or the presence or concentration of any other intoxicating substance which might have affected the ability of the person tested to operate a motor vehicle safely.

E. When blood is withdrawn or saliva or urine is collected for testing of its alcohol concentration or other intoxicating substance presence or concentration, at the request of a law enforcement officer, a sufficient quantity for the same specimen shall be obtained to enable the tested person, at his or her own option and expense, to have an independent analysis made of such specimen. The excess blood, saliva or urine specimen shall be retained by an approved laboratory for a period of sixty (60) days from the date of collection. At any time within that period, the tested person or his or her attorney may direct that such blood, saliva or urine specimen be sent or delivered to a licensed and certified laboratory of his or her own choosing for an independent analysis. Neither the tested person, nor any agent of such person, shall have access to the additional blood, saliva or urine specimen prior to the completion of the independent analysis, except the analyst performing the independent analysis and agents of the analyst.

F. When a test of breath is performed for the purpose of determining the alcohol concentration thereof, except when such test is performed by means of an automated analyzer, a sufficient quantity of breath, or of the alcohol content of a fixed or measured quantity of breath, shall be obtained, to enable the tested person, at his or her own expense to have an independent analysis made of such specimen. The excess specimen of breath, or of its alcohol content, shall be retained by the law enforcement agency employing the arresting officer, for sixty (60) days from the date of collection. At any time within that period, the tested person, or his or her attorney, may direct that such specimen be sent or delivered to a licensed and certified laboratory of his or her own choosing for an independent analysis. Neither the tested person, nor any agent of such person, shall have access to the additional specimen of breath, or of its alcohol content, prior the completion of the independent analysis thereof, except the analyst performing the independent analysis and agents of the analyst.

G. The costs of collecting blood, breath, saliva or urine specimens for the purpose of determining the alcohol or other intoxicating substance thereof, by or at the direction of a law enforcement officer, shall be borne by the law enforcement agency employing such officer. The cost of collecting, retaining and sending or delivering to an independent laboratory the excess specimens, breath, saliva or urine for independent analysis at the option of the tested person shall also be borne by such law enforcement agency. The cost of the independent analysis of such specimen of blood, breath, saliva or urine shall be borne by the tested person at whose option such analysis is performed. The tested person, or his or her agent, shall make all necessary arrangements for the performance of such independent analysis other than the forwarding or delivery of such specimen.

H. Tests of blood or breath for the purpose of determining the alcohol concentration thereof, and tests of blood, saliva or urine for the purpose of determining the presence or concentration of any other intoxicating substance therein, under the provisions of this chapter, whether administered by or at the direction of a law enforcement officer or administered independently, at the option of the tested person, on the excess specimen of such person's blood, breath, saliva or urine, to be considered valid and admissible in evidence under the provisions of this chapter, shall have been administered or performed pursuant to § 3-2707 of this chapter.

I. Any person who has been arrested for any offense arising out of acts alleged to have been committed while the person was operating or in actual physical control of a motor vehicle while under the influence of alcohol, any other intoxicating substance or the combined influence of alcohol and any other intoxicating substance who is not requested by a law enforcement officer to submit to a test shall be entitled to have an independent test of his or her blood, breath, saliva or urine for the purpose of determining its alcohol concentration or the presence or concentration of any other intoxicating substance therein, performed by a person of his or her own choosing who is qualified as stipulated in this section. The arrested person shall bear the responsibility for making all necessary arrangements for the administration of such independent test and for the independent analysis of any specimens obtained, and bear all costs thereof. The failure or inability of the arrested person to obtain an independent test shall not preclude the admission of other competent evidence bearing upon the question of whether such person was under the influence of alcohol, or any other intoxicating substance or the combined influence of alcohol and any other intoxicating substance.

J. Any agency or laboratory certified by any state or jurisdiction which analyzes breath, blood, or urine shall make available a written report of the results of the test administered by or at the direction of the law enforcement officer to the tested person, or his or her attorney. The results of the tests provided for in this chapter shall be admissible in civil actions.

### **§ 3-2703. Refusal to submit to test**

If a conscious person under arrest refuses to submit to testing of his or her blood or breath for the purpose of determining the alcohol concentration thereof, or to a test of his or her blood, saliva or urine for the purpose of determining the presence or concentration of any other intoxicating substance, or the combined influence of alcohol and any other intoxicating substance, none shall be given, unless the investigating officer has probable cause to believe that the person under arrest, while intoxicated, has operated the motor vehicle in such a manner as to have caused the death or serious physical injury of any other person or persons. In such event, such test otherwise authorized by law may be made in the same manner as if a search warrant had been issued for such test or tests. The sample shall be taken in a medically acceptable manner at a hospital or other suitable health care facility.



**§ 3-2704. Seizure of license**

A. Any arrested person who is under twenty-one (21) years of age and has any measurable quantity of alcohol in the person's blood or breath, or any person twenty-one (21) years of age or older whose alcohol concentration is eight-hundredths (0.08) or more as shown by a breath test administered according to the provisions of this chapter, or any arrested person who has refused to submit to a breath or blood test, shall immediately surrender his or her driver license, permit or other evidence of driving privilege to the arresting law enforcement officer. The officer shall seize any driver license, permit, or other evidence of driving privilege surrendered by or found on the arrested person during a search.

B. If the evidence of driving privilege surrendered to or seized by the officer has not expired and otherwise appears valid, the officer shall issue to the arrested person a dated receipt for that driver license, permit, or other evidence of driving privilege.

C. At any hearing held relevant to this section, a report of the findings of the laboratory, any medical examiner's report of investigation or autopsy report, or a laboratory report from a forensic laboratory operated by the Muscogee (Creek) Nation, the State of Oklahoma or a laboratory approved by the court, which has been made available to the person at least five (5) days prior to the hearing, with reference to all or part of the evidence submitted, when certified as correct by the persons making the report shall be received as evidence of the facts and findings stated, if relevant and otherwise admissible in evidence. If the report is deemed relevant by either party, the court shall admit the report without the testimony of the person making the report, unless the court, pursuant to this subsection, orders the person to appear.

D. When any alleged controlled dangerous substance has been submitted to a licensed laboratory for analysis, and the analysis shows that the submitted material is a controlled dangerous substance, the distribution of which constitutes a crime under the laws of the Muscogee (Creek) Nation, no portion of the substance shall be released to any other person or laboratory absent an order of the district court. The defendant shall additionally be required to submit to the court a procedure for transfer and analysis of the subject material to ensure the integrity of the sample and to prevent the material from being used in any illegal manner.

E. The court, upon motion of either party, shall order the attendance of any person preparing a report submitted as evidence in the hearing when it appears there is a substantial likelihood that material evidence not contained in the report may be produced by the testimony of any person having prepared a report. The hearing shall be held, and, if sustained, an order issued not less than five (5) days prior to the time when the testimony shall be required.

F. If within five (5) days prior to the hearing or during a hearing, a motion is made pursuant to this section requiring a person having prepared a report to testify, the



court may hear a report or other evidence but shall continue the hearing until such time notice of the motion and hearing is given to the person making the report, the motion is heard, and, if sustained, the testimony ordered can be given.

**§ 3-2705. Admission of Evidence Shown by Tests**

A. Upon the trial of any criminal action or proceeding arising out of acts alleged to have been committed by any person while driving or in actual physical control of a motor vehicle while under the influence of alcohol or any other intoxicating substance, or the combined influence of alcohol and any other intoxicating substance, evidence of the alcohol concentration in the blood or breath of the person as shown by analysis of the blood or breath of the person performed in accordance with the provisions of §§ 3-2702 and 3-2707 of this chapter or evidence of the presence or concentration of any other intoxicating substance as shown by analysis of such person's blood, breath, saliva, or urine specimens in accordance with the provisions of §§ 3-2702 and 3-2707 of this chapter is admissible. For the purpose of this chapter, when the person is under the age of twenty-one (21) years, evidence that there was, at the time of the test, any measurable quantity of alcohol is prima facie evidence that the person is under the influence of alcohol in violation of § 3-1306 of this chapter. For persons twenty-one years of age or older:

1. Evidence that there was, at the time of the test, an alcohol concentration of five-hundredths (0.05) or less is prima facie evidence that the person was not under the influence of alcohol;
2. Evidence that there was, at the time of the test, an alcohol concentration in excess of five-hundredths but less than eight-hundredths is relevant evidence that the person's ability to operate a motor vehicle was impaired by alcohol. However, no person shall be convicted of the offense of operating or being in actual physical control of a motor vehicle while such person's ability to operate such vehicle was impaired by alcohol solely because there was, at the time of the test, an alcohol concentration in excess of five-hundredths (0.05) but less than eight-hundredths (0.08) in the blood or breath of the person in the absence of additional evidence that such person's ability to operate such vehicle was affected by alcohol to the extent that the public health and safety was threatened or that said person had violated an ordinance or law in the operation of a motor vehicle; and
3. Evidence that there was, at the time of the test, an alcohol concentration of eight-hundredths (0.08) or more shall be admitted as prima facie evidence that the person was under the influence of alcohol.

B. For purposes of this chapter, "alcohol concentration" means grams of alcohol per one hundred (100) milliliters of blood if the blood was tested, or grams of alcohol per two hundred ten (210) liters of breath if the breath was tested.

C. To be admissible in a proceeding, the evidence must first be qualified by establishing that the test was administered to the person within two (2) hours after the arrest of the person.

**§ 3-2706. Other competent evidence—Admissibility**

The provisions of §§ 3-2701 through 3-2708 of this chapter do not limit the introduction of any other competent evidence bearing on the question of whether the person was under the influence of alcohol or any other intoxicating substance, or the combined influence of alcohol or any other intoxicating substance, or the combined influence of alcohol and any other intoxicating substance.

**§ 3-2707. Tests for Alcohol and Drug Influence**

Collection and analysis of a person's blood, breath, saliva or urine, to be considered valid and admissible in evidence, whether performed by or at the direction of a law enforcement officer or at the request of the tested person, shall have been performed in compliance with the rules adopted by the Oklahoma Board of Tests for Alcohol and Drug Influence and by an individual possessing a valid permit issued by the Board for this purpose or shall have been performed by a laboratory accredited in toxicology by the American Society of Crime Laboratory Directors/Laboratory Accreditation Board (ASCLD/LAB) or accredited by the American Board of Forensic Toxicology (ABFT).

**§ 3-2708. Operation of a Motor Vehicle While Impaired—Penalties**

A. Any person who operates a motor vehicle while his ability to operate such motor vehicle is impaired by the consumption of alcohol, or any other substance, other than alcohol, which is capable of being ingested, inhaled, injected or absorbed into the human body and is capable of adversely affecting the central nervous system, vision, hearing or other sensory or motor functions shall be subject to a fine of not less than One Hundred Dollars (\$100.00) nor more than Five Hundred Dollars (\$500.00), or imprisonment for not more than six (6) months, or by both such fine and imprisonment.

B. Any person who is found guilty of a violation of the provisions of this section or pleading guilty or nolo contendere for a violation of any provision of this section shall be ordered to participate in a drug and alcohol assessment and evaluation for the purpose of evaluating the receptivity to treatment and prognosis of the person. The agency or assessor shall, within seventy-two (72) hours from the time the person is assessed, submit a written report to the court. If such report indicates that the evaluation shows that the defendant would benefit from a ten-hour or twenty-four-hour alcohol and drug substance abuse course or a treatment program or both, the person who is the subject of the report shall, as a condition of any sentence imposed, follow all recommendations identified by the assessment and evaluation.

**§ 3-2709. Open Receptacle Containing Alcoholic Beverage**

No person shall drink or consume alcoholic beverages in a motor vehicle nor keep in the vehicle or have in his possession or on his person while in such vehicle any bottle or receptacle containing alcoholic beverages which has been opened or the contents of which have been partially consumed.

## **SUBCHAPTER 28. ABANDONMENT OF VEHICLES**

### **§ 3-2801. Abandonment Unlawful-Determination**

It shall be unlawful to abandon a motor vehicle on a highway or other public property. Any peace officer shall deem a vehicle abandoned and shall have the authority to remove or direct the removal of a vehicle when found upon any portion of the highway, shoulder, or right-of-way, if after a period of forty-eight (48) hours there is no evidence of an apparent owner who intends to remove the vehicle. Any person who is convicted for violating this provision shall be guilty of a misdemeanor, punishable in accordance with this chapter.

### **§ 3-2802. Authorization to Remove Abandoned Vehicle**

If such officer has reasonable cause to believe a vehicle has been abandoned in a location which would be hazardous to the free flow of traffic or be highly susceptible to damage from vandalism or other harm, he shall have the authority to remove or direct the removal of the vehicle immediately. At the time of ordering the removal of an abandoned vehicle, the authorizing officer shall also determine the sale value of the vehicle and certify that amount on the removal order.

### **§ 3-2803. Notice of Impoundment—Civil Liability**

Any such officer who has directed the impoundment of any vehicle, or an authorized person in the employing agency of the officer, shall within seventy-two (72) hours of the impoundment notify the Muscogee (Creek) Nation Lighthorse Department or the sheriff or police chief of any county or city which has in place a cross-deputization agreement with the Muscogee (Creek) Nation where said vehicle was impounded of such impoundment. The notice of impoundment shall contain the name and address of the owner, if known, the make, model, vehicle identification number, registration number, date stored, place stored and the estimated value of the vehicle as determined by the officer.

### **§ 3-2804. Payment of cost of removal and storage**

The owner of a motor vehicle or lienholder of the vehicle abandoned in violation of § 3-2801 et seq. of this chapter, or the owner of any vehicle or lienholder of the vehicle or insurer accepting liability for paying a claim on a vehicle or purchasing the vehicle as a total loss vehicle from the registered owner which shall have been lawfully removed from any highway or other public property may regain possession of the vehicle upon payment of the reasonable cost of removal and storage of such vehicle. The towing company,

wrecker operator, or storage facility is authorized to collect all lawful fees from the owner, lienholder that seeks possession of a vehicle under a security interest, agent or insurer accepting liability for paying the claim for a vehicle or purchasing the vehicle as a total loss vehicle from the registered owner of the towed vehicle for the performance of any and all such services. The towing company, wrecker operator, or storage facility shall release the vehicle from storage upon authorization from the owner, agent or lienholder of the vehicle or in the case of a total loss, the insurer accepting liability for paying the claim on the vehicle or purchasing the vehicle where the vehicle is to be moved to an insurance pool yard for sale. The cost of removal and storage shall be paid to the wrecker or towing service.

**§ 3-2805. Lienholder Defined**

A lienholder as used in § 3-2804 of this chapter shall mean those lienholders as shown on the vehicle title.

**§ 3-2806. Special Liens**

Every person lawfully in possession of an abandoned vehicle shall have a special lien thereon for the compensation due him from the owner of such abandoned vehicle for all expenses incurred.

**SECTION FOUR. EFFECTIVE DATE.** This Act shall become effective immediately upon proper approval and execution in accordance with the requirements of the Muscogee (Creek) Nation Constitution.

**ENACTED** by the Muscogee (Creek) National Council on this 31<sup>st</sup> day of October, 2020.

**IN WITNESS WHEREOF**, the Speaker of the Muscogee (Creek) National Council has hereto attached his signature.

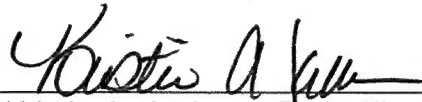


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Randall Hicks, Speaker  
National Council  
Muscogee (Creek) Nation

**CERTIFICATION**

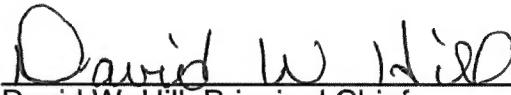
I, the undersigned, certify that the foregoing is a true extract from the minutes of the Muscogee (Creek) National Council comprised of Sixteen members with **Sixteen** members attending this meeting on the **31<sup>st</sup>** day of **October, 2020** and that the above is in conformity with the provisions therein adopted by a vote of **15** in favor, **0** against and that said Law has not been rescinded or amended in any way and the above is the signature of the Speaker of the National Council.



Kristie A. Jackson, Recording Secretary  
Muscogee (Creek) National Council

**APPROVAL**

I, the Principal Chief of the Muscogee (Creek) Nation, hereby affix my signature on this 6<sup>th</sup> day of November, 2020 to the above Law, **NCA 20-087** authorizing it to become a Law under Article VI., Section VI., of the Constitution of the Muscogee (Creek) Nation.



David W. Hill, Principal Chief  
Muscogee (Creek) Nation

